

No. 77966-0

IN THE SUPREME COURT
OF THE STATE OF WASHINGTON

NO NEW GAS TAX, ET AL.,

Appellants,

v.

SAN JUAN COUNTY, ET AL.,

Respondents.

RESPONDENTS/CROSS-APPELLANTS'
ANSWER TO BRIEFS OF AMICI

SAN JUAN COUNTY PROSECUTING
ATTORNEY RANDALL K. GAYLORD
WSBA No. 16080

CITY OF KENT
THOMAS C. BRUBAKER, CITY
ATTORNEY
WSBA No. 18849

CITY OF AUBURN
DANIEL B. HEID, CITY ATTORNEY
WSBA No. 8217

CITY OF SEATTLE
THOMAS A. CARR, CITY ATTORNEY
WSBA No. 19845

Michael K. Vaska, WSBA No. 15438
P. Stephen DiJulio, WSBA No. 7139
David S. Snyder, WSBA No. 32548
Ramsey Ramerman, WSBA No. 30423
Attorneys for Appellant

FOSTER PEPPER PLLC
1111 Third Avenue, Suite 3400
Seattle, Washington 98101-3299
(206) 447-4400

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I. INTRODUCTION

This case is about disclosure, and the people's right to know who is funding initiative campaigns in our state. As this Court held thirty-years ago, the people have "the right to know of the sources and magnitude of financial and persuasional influences upon government." *Fritz v. Gorton*, 83 Wn.2d 275, 309-10 (1974).

The No New Gas Tax Campaign and the Non-Disclosure Amici¹ urge this court to be the first in the nation to revoke this bedrock principle of campaign finance law. They ask this Court to be the first to find that voters have no legitimate interest in the disclosure of corporate contributions to campaigns.

Unable to cite any authority supporting their position, Non-Disclosure Amici seek to recast this case as involving First Amendment issues unrelated to campaign disclosure. However, as the U.S. Supreme Court observed, parties like the Non-Disclosure Amici

... never satisfactorily answer the question of how 'uninhibited robust, and wide-open' speech can occur when organizations hide themselves from the scrutiny of the voting public [the] argument for striking down ... disclosure provisions does not reinforce the precious First Amendment values [they] argue are trampled ..., but ignores the competing First Amendment interests in individual citizens seeking to make informed choices in the political marketplace.

¹ The Amici opposed to requiring disclosure of media contributions are: (1) Washington Association of Broadcasters, (2) American Civil Liberties Union of Washington, and (3) the Center for Competitive Politics, Cato Institute and Building Industry Association of Washington.

McConnell v. FEC, 540 U.S. 93, 197 (2003) (quoting *McConnell v. FEC*, 251 F.Supp.2d 176, 237 (D.D.C. 2003).

II. ARGUMENT

A. Campaign Disclosure Advances The Compelling State Interest Of Allowing Voters To Make Informed Choices.

Court's have steadfastly upheld against First Amendment challenge state statutes requiring campaigns to disclose the source and magnitude of their contributions. As the Ninth Circuit recently held "there is a compelling state interest in informing voters who or what entity is trying to persuade them to vote in a certain way." *Alaska Right to Life Committee v. Miles*, 441 F.3d 773, 793 (9th Cir. 2006). Three decades ago, this Court upheld the Fair Campaign Practices Act with similar reasoning:

We accept as self-evident . . . that the right to receive information is the fundamental counterpart of the right of free speech . . . [The Act] seeks to enlarge the information base upon which the electorate makes its decisions."

Fritz v. Gorton, 83 at 297-98. Non-Disclosure Amici provide no basis for this Court to reverse these long-standing precedents and revoke the people's right to campaign disclosure.

1. Disclosure Of Free Air Time Has Not Driven Media Corporations Out Of The Public Square Of Campaigns.

Media corporations in our state have long known that air time and other advertising space contributed to a campaign must be reported to the PDC and disclosed to the public. Media corporations and their employees have not been driven out of the public square of campaigns by these requirements, as the Non-Disclosure Amici suggest.

In 1992, the Public Disclosure Commission stated that “when a broadcaster [] provide[s] free air time for the purposes of communicating political advertising to an initiative campaign it will be considered a contribution.” PDC Dec. Order No. 5a. During the ensuing 14 years, the media’s participation in the public square of campaigns has been robust:

- In 1993, KVI talk show host Mike Siegel was provided free air time during his radio program to promote Initiative 602. According to press reports, “The station decided to declare the air time as a \$4,000 contribution to the campaign, after the PDC received several complaints that Siegel’s endorsements constituted promotion of the tax-rollback initiative.” See Mary Elizabeth Cronin, *Static On The Air Waive (r) s In Lake Washington Race*, Seattle Times, September 9, 1993 at B1.
- In 1995, Siegel considered running for governor. The PDC confirmed that if a talk show host “solicits or accepts contributions” while on the air it would be a reportable contribution of free air time. See August 29, 1995 PDC Advisory Opinion at 3. ***Fisher Communications stated that this opinion “provides a relatively clear rule that is easily applicable by the broadcasters.”*** (See Appendix 5 to Prosecutor’s Response Brief.)²
- In 1998, the Blethen Corporation, an owner of *The Seattle Times*, made independent expenditures in opposition to the I-200 Campaign.³ It disclosed to the PDC the value of numerous full page political advertisements placed in the *Times* opposing the initiative. See Appendix 1, PDC Records. KVI talk show host John Carlson was the

² Fisher’s attorney in the Siegel matter, Mike Kipling, filed the amicus brief on behalf of the ACLU on this appeal. Fisher’s law firm in the Siegel matter, Graham & Dunn, filed the amicus on behalf of the State Broadcasters in this appeal.

³ I-200 was sponsored by John Carlson with help from the Madison Group, campaign consultants to the No New Gas Tax Campaign. The campaign claimed to be “grass roots” despite the American Civil Rights Institute spending \$500,000 for advertisements without disclosing any contribution to the campaign. See Heath Foster, *Ads And Money Shape I-200 Debate Affirmative-Action Fight May Cost \$2.3 Million*, Seattle Post-Intelligencer, October 26, 1998, A1.

primary sponsor of the I-200 campaign. Tom Brune, *I-200 Forces Matched Foes On Ad Outlays*, Seattle Times, July 21, 1999 at B1.

- In 2000, once and future KVI talk show host John Carlson ran for governor. See David Postman, *Locke-Carlson Money Race Off To A Fast Start*, Seattle Times, April 12, 2000 at B3.
- In 2004, radio talk show host Dave Ross continued to broadcast on his program after announcing he was a candidate for Congress. He and the station did not run afoul of federal disclosure laws because, as the Federal Election Commission's General Counsel found, Ross "specifically avoided any solicitation of or response to any questions by listeners regarding his candidacy during the call-in portions of the show." In re Dave Ross, First General Counsel's Report at 7.
- In 2005, KTTH talk show host Mike Siegel co-sponsored Initiative 900. See Appendix 2, I-900 Voter's Pamphlet Statement.

This robust participation by media corporations in campaigns over the last decade directly refutes Non-Disclosure Amici's claim that speech might be "chilled" in the future if media contributions to campaigns are disclosed. See *McConnell v. FEC*, 540 U.S. 93, 222-23 (2003) (rejecting claim that definition of "coordination" would chill speech in light of 27-year history of enforcement with no such chilling).

2. Disclosure Requirements For Air Time Are Narrowly Tailored To Provide Voters With Information About Media Corporations Supporting Campaigns.

Media participation in campaigns has not been inhibited because disclosure requirements for air time are narrowly tailored, and, as Fisher Broadcasting's attorneys concluded in 1995, "relatively clear" and "easily applicable by the broadcasters." (Letter from Michael Kipling, Graham and Dunn, to PDC, re: Fisher Broadcasting Inc., attached as Exhibit 5 to Prosecutor's Response Brief) The Attorney General's Amicus Brief

confirms that the disclosure requirements are narrowly tailored and will not require a campaign—whether sponsored by talk radio hosts or not—to report all media discussions of initiative or candidate campaigns.

Disclosure of free air time is required only when (1) a talk show host is an officer or agent of the campaign or a candidate and (2) the air time on his or her program is used for political advertising.

The Attorney General observes that a contribution occurs only “if the talk show host meets the definition of political committee or is an authorized agent of a political committee.” (AG Brief at 13) A political committee is “any person. . . having the expectation of receiving contributions or making expenditures in support of . . . any ballot proposition.” RCW 42.17.020 (38). Officers of a political committee include “any person who alone or in conjunction with other persons makes contribution, expenditure, strategic or policy decisions on behalf of the committee.” WAC 390-05-245.

Kirby Wilbur and John Carlson were officers of the Campaign, making contribution, expenditure, strategic and policy decisions. They made the strategic decision that “\$25,000 of seed money and 1000 volunteers” (CP 344) were needed to launch the Campaign. They made policy and expenditure decisions, including hiring lawyers to draft the initiative. (CP 361) They asked for and had the expectation of receiving contributions from their listeners. The hosts stated: “John [Carlson] and I [Wilbur] . . . a group of people have established an organization known as No New Gas Tax. We have a website nonewgastax.com.” (CP 345) They

then stated “[g]o to nonnewgastax.com . . . by all means make a donation the more generous the better . . .” (CP 345)

Wilbur and Carlson were also agents of the Campaign. An agent is defined as a person who “[r]epresents and acts for another with the authority or consent of the person represented . . .” WAC 390-05-190. The Campaign itself now admits that “a member of NNGT had previously requested . . . that Carlson mention certain issues regarding the campaign.” (NNGT Reply Brief at 9-10)

The trial court required the Campaign to disclose the free air time provided by Fisher Broadcasting because two KVI talk show hosts, who “were the principal organizers of the campaign,” had “used their media time to advertise the campaign and solicit funds for it.” (CP 1496) The court concluded that “[a]nything less than the facts in this case might well not be a reportable contribution.” (CP 1496)

3. The First Amendment Permits The “Minimal Burden” Of Disclosure On “Political Speech.”

Since all campaign contributions are “political speech,” any campaign disclosure law imposes some minimal but permissible burden on First Amendment rights. *McConnell v. FEC*, 540 U.S. 93, 122 (2003). For three decades, the federal and state courts have consistently held that the minimal burden imposed by disclosure is justified by the compelling state interest in informing voters who is funding campaigns.⁴

⁴ See e.g., *Alaska Right to Life Committee v. Miles*, 441 F.3d 773, 793 (9th Cir. 2006) (affirming Alaska’s disclosure requirements); *McConnell v. Federal Election Commission*, 540 U.S. 93 (2003) (campaign disclosure provisions are constitutional);

Disclosure requirements regulate “political speech” in the form of campaign contributions, not “pure speech” as Non-Disclosure Amici suggest.⁵ When a campaign sponsored by talk show hosts is required to report the value of air time contributed for political advertising on their shows, the talk show hosts are not required to say or refrain from saying anything. In *American Civil Liberties Union Of Nevada v. Heller*, 378 F.3d 979 (9th Cir. 2004), the Ninth Circuit distinguished a regulation of “pure speech”—requiring a citizen to put his name on an anonymous campaign flyer—from disclosing the value of resources to distribute it:

Campaign regulation requiring off-communication reporting of expenditures made to finance communications does not involve the direct alteration of the content of a communication. Such reporting requirements also serve considerably more effectively the goal of informing the electorate of the individuals and organizations supporting a particular candidate or ballot proposition.

Id. at 994.

4. The First Amendment Does Not Prohibit Disclosure Of In Kind Contributions.

All in-kind contributions—including “services ... furnished at less than their fair market value”—for the purpose of assisting any candidate

California Pro-Life Council, Inc. v. Getman, 328 F.3d 1088, 1106 (9th Cir. 2003); *Buckley v. Valeo*, 424 U.S. 1 (1976) (campaign finance disclosure provisions are constitutional); *Fritz v. Gorton*, 83 Wn.2d 275 (1974).

⁵ Of course, even “pure speech” may be regulated if the state has a compelling interest. See, e.g., *In re Raab*, 793 N.E.2d 1287, 1292 (N.Y. 2003) (judge may not engage in political activity not connected to his own campaign); *In re Watson*, 794 N.E.2d 1, 6-8 (N.Y. 2003) (judge may not make “pledge or promise” on particular issues); *In re Kinsey*, 842 So. 2d 77, 87-88 (Fla. 2003) (same).

or political committee are deemed a contribution. Such contributions must be reported and “are deemed to have a monetary value equivalent to the fair market value of the contribution.” Former RCW 42.17.020 (14)(c); *see* WAC 390-05-235.

Valuing in-kind contributions is a challenge facing any campaign that receives valuable items ranging from used computers to office supplies to wireless or other communication services. As the trial court explained to the Campaign: “I think you have the same problem that any other candidate or campaign has in trying to understand how to make full reporting, and I'm not inclined to treat you any differently.” (RP (7/1/05) 36:9-12)

The Non-Disclosure Amici maintain that it is unconstitutional to require disclosure of air time, because “there is no established rate” for the live political advertising by talk show hosts. (ACLU Brief at 15) However, they cite no case or other authority that has invalidated campaign disclosure requirements for in-kind contributions.

Exempting in-kind contributions as they propose would severely undermine the purposes of the disclosure laws. It would create a huge loophole that would allow corporations to evade identification with a campaign by contributing items or services that had value instead of cash.

In addition, the fair market value of the Fisher Communications contribution was readily ascertainable by reference to its existing rate cards. Fisher Communications has a rate card for air time sold for political advertising. (CP 171) Fisher’s promotional literature also states

that it sells KVI air time for live, talk show host endorsements: “*Live Commercials*- Our personalities can provide testimonials for your business providing credibility and results for your products and service.” (CP1416)

Such live radio personality endorsements are a talk radio mainstay. According to one media source:

The radio personality is compensated for his talent, and the radio station is paid a radio spot advertising fee (just like they would normally get for a regular spot radio commercial)...a well delivered radio endorsement will blend in with the rest of the radio show, at least for the first few seconds. ... endorsements are often aired by news and talk-show hosts as the endorsement blends seamlessly with their programs.

(CP 1421-24) The Campaign apparently had no trouble reporting the value of air time contributed by Fisher Broadcasting, estimating in the space of a few hours that value at \$20,000 for the month of May 2005.

The First Amendment does not play favorites with talk show hosts because they have access to one type of in-kind contribution. “The First Amendment gives no more protection to the press . . . than it does to others exercising their freedom of speech.” *Dun & Bradstreet, Inc. v. Greenhouse Builders, Inc.*, 472 U.S. 749, 773 (1985) (White, J. concurring) (agreed to by four dissenting justices).

Had Wilbur and Carlson used the Fisher Communication’s postage meter to send out direct mail soliciting contributions, their campaign would be required to report as an in kind contribution the value of postage

and other materials provided by Fisher Communications. They would be required to report this in-kind contribution even though Fisher Communications may not have a “rate card” for selling its postage meter or other supplies to the public. The fact that the Campaign delivered its message through the radio, instead of direct mailings, or some other advertising medium does not entitle that speech to greater protection than any other political speech. *See Pell v. Procunier*, 417 U.S. 817 (1974) (no special First Amendment right of access for the press).

B. The 21-day Prohibition On Large Contributions Will Not Limit A Talk Show Host’s Right To Promote An Initiative Campaign.

Statewide initiative campaigns are not subject to contribution limits. *See* RCW 42.17.640 (setting out contribution limitations that only apply to candidates).⁶ Talk show hosts may promote their initiatives — including making explicit appeals for money — in unlimited amounts on their program so long as the campaign reports the value of air time contributed by their radio stations.

Initiative campaigns are subject to a timing restriction on receiving large, “last minute” contributions. They may receive unlimited contributions so long as no more than \$5,000 is received during the three

⁶Contribution limits on candidate campaigns were not addressed in the trial court and are not before this court on appeal as this case involved only an initiative campaign. Non-Disclosure Amici incorrectly suggest that limiting the amount of contributions of free air time to candidates for political advertising would raise constitutional issues. Court’s regularly uphold contribution limits applied to candidate races. *See, McConnell*, 540 U.S. at 135. (“Because . . . contributions inhere[] mainly in their ability to facilitate the speech of their recipients, we have said that contribution limits impose serious burdens on free speech only if they are so low as to “preven[t] candidates and political committees from amassing the resources necessary for effective advocacy.” (quoting *Buckley v. Valeo*, 424 U.S. 1, 21 (1976)).

weeks before the general election. RCW 42.17.105(8). The 21-day limit was not implicated by the trial court's ruling, since it required disclosure only through May 31, 2005, several months before the 21-day period began.

Nevertheless, the Non-Disclosure Amici argue that the potential application of the 21-day limit to some future initiative campaign formed and directed by talk show hosts is a basis for reversing the trial court's decision. Since No New Gas Tax has expressly disavowed that it is making a facial challenge to the law,⁷ it is not necessary for the Court to address the implications of either the 21-day rule or limitations on contributions to candidate races. *See Brockett v. Spokane Arcades, Inc.*, 472 U.S. 491, 501 (1985) (when faced with a First Amendment challenge to a statute, courts should "never . . . anticipate questions of constitutional law in advance of the necessity of deciding it [and] . . . never . . . formulate a rule of constitutional law broader than is required by the precise facts to which it is to be applied.").

The 21-day period will not limit the speech rights of talk show hosts that sponsor initiative campaigns. First, like any other citizen, talk show hosts can buy air time to disseminate their political advertising or they can speak in forums that do not cost money. Unlike ordinary citizens, talk show hosts have an enormous fundraising advantage because

⁷ RP (9/24/05) at 38:6-10; *see also* Reply in Support of Motion for Discretionary Review (filed with Court of Appeals 9/29/05) at 13 ("NNGT is not facially challenging the FCPA").

they may use their programs to solicit cash contributions in unlimited amounts prior to the 21-day period. This cash can be used to buy air time to promote the campaign in excess of the \$5,000 limit.

The No New Gas Tax talk show hosts used Fisher Broadcasting air time to raise more than \$200,000 in the first 28-days of the campaign. (CP 143) They used cash raised by the campaign to buy air time on several radio stations during the 21-day period, including Fisher Communications' KOMO (Seattle) and KYSN (Wenatchee). *See* Appendix 3, I-912 PDC Reports. They could have purchased time on their own station, KVI.

Second, talk show hosts may also avoid the 21-day limit altogether by possessing a written notice that air time for political advertising will be received during the 21-day period. PDC regulations recognize that while cash can be received before and spent during the 21-day limit, personal services cannot. The PDC has therefore developed rules to ensure "that in-kind contributions are . . . treated the same as cash contributions...."

Wash St. Reg. 04-12-054 (2004). These regulations state:

If an in-kind contribution is in the form of personal services donated to a campaign for the duration of the twenty-one days before a general election, and if written notice of the value of this donation is in the possession of the recipient candidate or political committee twenty-two or more days before the election, that in-kind contribution is not subject to the respective \$5,000 or \$50,000 maximum amounts specified in RCW 42.17.105(8)).⁸

WAC 390-16-207(8)(b).

⁸ These provisions should be interpreted to avoid any constitutional problems on the talk show hosts ability to promote their campaign. *Duskin v. Carlson*, 136 Wn.2d 550, 557, 965 P.2d 611 (1998) ("Where possible, statutes will be construed so as to avoid any unconstitutionality.").

On-air endorsements by radio personalities are “personal services.”⁹ Thus, so long as a campaign has written notice that it will receive the donation of a talk show hosts’ on air political advertising prior to the 21-day period, and the notice includes the expected value of the contribution, there are no limits during the 21-day period on the amount of air time the talk radio host may use to promote his initiative campaign.¹⁰

C. All Voters Have The Right To Know What Media Corporations Are Funding Political Campaigns.

The U.S. Supreme Court and Ninth Circuit have summarized the state interests that support campaign disclosure laws as “providing the electorate with information, deterring actual corruption and avoiding any appearance thereof, and gathering the data necessary to enforce more substantive electioneering restrictions.” *McConnell*, 540 U.S. at 196; *Alaska Right to Life*, 441 F.3d at 792. A state has “substantial interests in regulating the ballot initiative process ... to protect the integrity of the initiative process, specifically, to deter fraud and diminish corruption.”

⁹ See, e.g., *KFOX, Inc. v. United States*, 510 F.2d 1365, 1375 (Ct. Cl. 1975) (holding services of disc jockeys were “personal services”); *Reier Broadcasting Co. v. Kramer*, 72 P.3d 944, 946 (Mont. 2003) (holding coach’s contract to host radio show was personal services contract); *ABC, Inc. v. Wolf*, 420 N.E.2d 363, 366-69 (N.Y. 1981) (holding services of sports broadcaster were “personal services”); see also *Sherman v. Lunsford*, 44 Wn. App. 858, 866-67, 723 P.2d 1176 (1986) (adopting Restatement (Second) of Contracts § 367, including comment’s definition of “personal services”).

¹⁰ An initiative campaign conducted by talk show hosts may also avoid any limit by receiving a “contribution” in the form of an “advance” on the value of air time the radio station will provide during the 21-day period. See RCW 42.17.020(14)(a)(i). The advance is received on the “date that the contribution becomes available for use by the ... committee.” WAC 390-05-215(3). So long as the advance is received prior to the 21-day period, it can be in any amount and drawn upon during that period.

Buckley v. Amer. Constitutional Law Found., 525 U.S. 182, 204-05 (1999).

When they overwhelming voted for campaign finance disclosure through passage of Initiative 276, our state's citizens articulated similar interests, finding "[t]hat the public's right to know of the financing of political campaigns and lobbying ... far outweighs any right that these matters remain secret and private" and that disclosure was necessary "to promote "public confidence in government at all levels ... by all possible means." RCW 42.17.010. Public confidence in government had been shaken by Watergate-era disclosures about secret corporate funding for political campaigns. The voters therefore found that the Fair Campaign Practices Act should be "liberally construed to promote complete disclosure of all information respecting the financing of political campaigns." RCW 42.17.010.

1. *Providing Voters With Information.* The people's interest in "requiring disclosure of the source and amount of funds spent for express ballot-measure advocacy ... provides ... voters with a useful shorthand for evaluating the speaker behind the sound bite." *California Pro-Life Council, Inc. v. Getman*, 328 F.3d 1088, 1106 (9th Cir. 2003). Disclosure is the "'essential cornerstone' to effective campaign reform ... assist[ing] voters in making intelligent and knowing choices in the election process." *Buckley*, 525 U.S. at 223-24 (O'Connor, J., dissenting in part)(quoting H. Alexander, *Financing Politics: Money, Elections and Political Reform* 164 (4th ed 1992)).

Knowing which interested parties back or oppose a ballot measure is critical, especially when one considers that ballot-measure language is typically confusing, and the long-term policy ramifications of the ballot measure are often unknown. ***At least by knowing who backs or opposes a given initiative, voters will have a pretty good idea of who stands to benefit from the legislation.***

California Pro-Life Council, Inc. v. Getman, 328 F.3d 1088, 1106, 1107 (9th Cir. 2003)(emphasis added).¹¹

Because the support of a particular group or corporation may be an important voter cue to support or oppose a ballot measure, initiative sponsors may want to publicize their support to groups that will be favorably disposed to their position (like a talk radio station's audience) and limit or avoid publicizing the information to interest groups that would be negatively disposed (like people who despise talk radio and never tune it in). *See California Pro-Life*, 328 F.3d at 1106. The campaign's self-serving disclosure to some voters does not fulfill the compelling state interest to inform all voters about what corporations are funding a campaign. Disclosure ensures that all citizens—those who may react negatively or positively to a corporation's support—will have equal

¹¹ This interest is particularly important in ballot initiative campaigns, where voters are asked to decide often complex changes to the law:

Voters act as legislators in the ballot-measure context, and interest groups and individuals advocating a measure's defeat or passage act as lobbyists; both groups aim at pressuring the public to pass or defeat legislation. We think Californians, as lawmakers, have an interest in knowing who is lobbying for their vote, just as members of Congress may require lobbyists to disclose who is paying for the lobbyists' services and how much. *See United States v. Harriss*, 347 U.S. 612, 625 (1954).

Id. at 1106.

access to at least some information about what corporate or other interests are behind those lobbying for their vote to change the law.

In their brief the Broadcaster's admit that some of their members "may choose to prohibit their employees from associating with political campaigns." (Broadcasters Brief at 5) Voters have the right to know that Fisher Broadcasting—or any other media corporation—decided to let its talk show hosts sponsor a campaign and draw whatever inference they will from that fact. Voters also have the right to know that a media corporation decided to contribute air time to the No New Gas Tax Campaign, just as they had the right to know that other corporations contributed money or in-kind to the opposition campaign. This information—like all information about special interests backing an initiative—gives the voters critical "shorthand" information helping them decide how to vote.

2. *Preserving the Integrity of Elections.* The U.S. Supreme Court has repeatedly found that requiring disclosure of contributions to an initiative campaign is justified by the public's interest in preserving the integrity of such campaigns. In *Citizens Against Rent Control v. City of Berkeley*, 454 U.S. 290 (1981), the Supreme Court struck down contribution limits for certain ballot propositions but found regulations compelling the disclosure of expenditures and contributions in the ballot-initiative context passed constitutional muster. "The integrity of the political system will be adequately protected if contributors are identified in a public filing revealing the amounts contributed; if it is thought wise,

legislation can outlaw anonymous contributions.” Id. at 299-300
(emphasis added); see also *Watchtower Bible and Tract Soc’y of New York, Inc. v. Village of Stratton*, 536 U.S. 150, 167 (2002)(disclosure “may well be justified in some situations—for example, by the special state interest in protecting the integrity of a ballot-initiative process. . .”).

In *Buckley v. Amer. Constitutional Law Found.*, 525 U.S. 182, 202 (1999), the Supreme Court noted the substantial state interest in protecting the integrity of the initiative process through financial disclosure:

the State and supporting *amici* stress the importance of disclosure as a control or check on ***domination of the initiative process by affluent special interest groups.*** Disclosure of the names of initiative sponsors, and of the amounts they have spent gathering support for their initiatives, responds to that substantial state interest.

525 U.S. at 202-03 (citations omitted)(emphasis added).

Without the “control or check” of disclosure, media corporations could use their power to allocate free air time for political advertising to dominate the initiative process, much as they have sought to serve as a powerful lobbying force in Congress in pursuit of their own commercial interests. See, *Charles Layton, Lobbying Juggernaut: The Broadcast Industry Has Become One Of Washington’s Most Feared Economic Special Interests, Creating More and More Ethical Conflicts for News Outlets. And Too Many Journalists Are Playing Right Along*, 26 Am. Journalism Rev. 26 (Oct-Nov 2004) (Attached as Appendix 4).

When citizens voted to require campaign disclosure in 1972, the broadcast industry was not the highly concentrated, powerful lobby that it is today. FCC regulations back then sought to ensure ownership of radio and television stations was diverse by limiting the number of stations one company could own. *Prometheus Radio Project v. FCC*, 373 F.3d 372, 383 (3rd Cir. 2004). The 1980s “saw a deregulation trend for media ownership,” with the FCC easing its media ownership rules. The Commission “relaxed local and national radio ownership restrictions and ... allowed a single entity to own more radio stations in the largest markets.” *Id.* at 384. Congress also eased local radio ownership limits when it passed the Telecommunications Act of 1996. *Id.*

As a result of these changes, the radio broadcast industry in our state has become highly concentrated, with just a few, mostly out-of-state media corporations controlling the major radio markets. In Seattle, for example, three out-of-state media corporations (Clear Channel, Entercom and CBS) control 70 percent of the top 20 commercial stations. In the Spokane market, three out-of-state corporations (Citadel, Clear Channel and KXLY Broadcast Group) control 95 percent of the top 20 commercial stations.¹²

Frank Blethen, Publisher of *The Seattle Times* warns that the rapid increase in media concentration puts our democracy “in crisis!” He said:

Concentration of media ownership is eroding our democracy. ... The majority of media in the United States is

¹² Radio station rankings obtained from www.arbitron.com. Station ownership information obtained from network and station websites.

controlled by financial investors. Unchecked, they will continue to advance their own financial interests.

<http://www.iwantmedia.com/people/people19.html>

Disclosure of media contributions will help preserve the integrity of campaigns. It serves as a check or control on “*domination of the initiative process by affluent special interest groups*” like national media corporations. *See Buckley*, 525 U.S. at 202 (emphasis added).

3. Requiring Disclosure Mandates Candor. When a campaign files a report with the PDC, it has a duty to provide honest and accurate information. RCW 42.17.430 If reports are not “complete and correct” the campaign may be fined. RCW 42.17.390. If campaigns embrace this duty of candor, voters will have valuable, accurate information about who is supporting a campaign.

The Campaign, however, did not embrace this duty of candor. Its inconsistent positions demonstrate why self-serving disclosure is not adequate.

The talk show hosts told their listeners they had started the No New Gas Tax campaign and were coordinating its efforts. A KVI press release said: “KVI County Delivers a Resounding ‘No’ to New Gas Tax: KVI’s Wilbur and Carlson raise funds and support for “No New Gas Tax” effort.” (CP 1418) In an internal KVI e-mail, a Fisher Vice-President stated that the station’s assistance “gave the appearance that [Fisher] was sponsoring this No New Gas Tax initiative.” (CP 1419) However, after questions were raised about whether the Campaign had disclosed the value

of in-kind contributions, the Campaign argued Wilbur and Carlson were just “enthusiastic supporters” and neither “host controlled, directed or acted at the behest of the campaign.” (CP 749)

Voters are entitled to have information provided under a requirement of honesty and full candor about the source and magnitude of contributions to initiative campaigns. Voters therefore have a substantial interest in having such contributions disclosed to the PDC, even if some of the information may be available through other sources where no duty of candor is imposed. This reporting requirement will assist in detecting both substantive violations and the failure by campaigns to tell voters the truth about the source and magnitude of their support.

III. CONCLUSION

For the above-stated reasons, this Court should affirm the dismissal of the Campaign’s counterclaims, and remand for an entry of an award of attorneys’ fees.

RESPECTFULLY SUBMITTED this 25th day of May, 2006.

FOSTER PEPPER PLLC



Michael K. Vaska, WSBA No. 15438
P. Stephen DiJulio, WSBA No. 7139
David S. Snyder, WSBA No. 32548
Ramsey Ramerman, WSBA No. 30423

Attorneys for Respondents San Juan County,
City of Auburn, City of Kent and City of
Seattle

APPENDIX 1



PUBLIC DISCLOSURE COMMISSION

711 CAPITOL WAY RM 403
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111



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DEC 8 1998

INDEPENDENT CAMPAIGN EXPENDITURES
\$100.00 OR MORE

1. Name and address of person making expenditure

Blethen Corporation
P.O. Box 70
Seattle, WA 98111-0070

2. Check appropriate box

☐ One time report. I do not expect to make other independent expenditures.

☐ I do expect to make other independent expenditures (See instructions)

☒ Final report.

2. Name of candidate or ballot proposition supported or opposed: check ☐ support or ☒ oppose

I-200

3a. List the value of all independent expenditures made if aggregate is \$100 or more. Itemize expenditures of more than \$50 made in support or in opposition to any candidate or ballot proposition during an election campaign. Do not include monetary or in-kind contributions made directly to a candidate or political committee.

Date	Name and address of vendor or recipient	Description of expenditure (goods, services, or rights purchased or furnished)	Amount or value (*see below)
10/28/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	Advertisement placed in Seattle Times (Daily)	\$ 696
10/28/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	\$ 1,984
10/28/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	9,400
10/29/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	696
10/30/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	696
10/31/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	696
10/31/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	1,984
Expenditures \$50 or less not itemized above			Page 1 of 3
Total this report period			\$

3b.

Total independent expenditures made during this election campaign.
Include expenditures shown in this report and previously submitted reports.

\$

INSTRUCTIONS

WHO MUST REPORT:

Persons who make expenditures aggregating \$100 or more during any election campaign in support of or opposition to a candidate or ballot proposition if not made directly to or in coordination with the candidate or a political committee.

WHEN TO REPORT: When aggregate amount reaches:

less than \$100

—No report is required

\$100 or more (or value cannot be estimated)

—Within 5 days

If additional expenditures made

—* 10th of month preceding election in which other reports are not required.

* 21 days prior to election

* 7 days prior to election

* 10th day of month after election

*Required only when expenditures have been made since last report was submitted.

WHERE TO REPORT:

Copy #1—Public Disclosure Commission.

Copy #2—County Elections Officer of candidate. For ballot propositions with County Elections Officer of person filing this report.

AMOUNT OR VALUE

*If no reasonable estimate can be made of value, describe activity, services, property or right furnished precisely and attach copy of item produced or distributed.

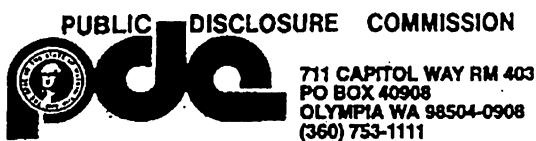
CERTIFICATION: I hereby certify that the above is true, complete and correct to the best of my knowledge.

Signature of person making expenditures

Name

Title

Date



FORM C6 1/90	THIS SPACE FOR OFFICE USE PM MARK RECEIVED DEC 8 1998
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INDEPENDENT CAMPAIGN EXPENDITURES \$100.00 OR MORE

1. Name and address of person making expenditure

Blethen Corporation
P.O. Box 70
Seattle, WA 98111-0070

2. Check appropriate box
- ☐ One time report. I do not expect to make other independent expenditures.
- ☐ I do expect to make other independent expenditures (See instructions)
- ☒ Final report.

2. Name of candidate or ballot proposition supported or opposed: check ☐ support or ☒ oppose

I-200

3a. List the value of all independent expenditures made if aggregate is \$100 or more. Itemize expenditures of more than \$50 made in support or in opposition to any candidate or ballot proposition during an election campaign. Do not include monetary or in-kind contributions made directly to a candidate or political committee.

Date	Name and address of vendor or recipient	Description of expenditure (goods, services, or rights purchased or furnished)	Amount or value (*see below)
11/1/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	Advertisement placed in Seattle Times (Sunday)	\$ 1,074
11/1/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" " (Sunday)	\$14,499
11/1/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" " (Sunday)	\$ 1,074
11/1/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" " (Sunday)	\$ 1,074
11/2/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" " (Daily)	\$ 3,060.90
11/2/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" " (Daily)	\$ 696
11/2/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" " (Daily)	\$ 696

Expenditures \$50 or less not itemized above

Total this report period \$

Page 2 of 3

3b.

Total independent expenditures made during this election campaign. Include expenditures shown in this report and previously submitted reports.

\$

INSTRUCTIONS

WHO MUST REPORT:

Persons who make expenditures aggregating \$100 or more during any election campaign in support of or opposition to a candidate or ballot proposition if not made directly to or in coordination with the candidate or a political committee.

WHEN TO REPORT: When aggregate amount reaches:

- less than \$100 — No report is required
- \$100 or more (or value cannot be estimated) — Within 5 days
- If additional expenditures made — * 10th of month preceding election in which other reports are not required.
- * 21 days prior to election
- * 7 days prior to election
- * 10th day of month after election

* Required only when expenditures have been made since last report was submitted.

WHERE TO REPORT:

Copy #1—Public Disclosure Commission.

Copy #2—County Elections Officer of candidate. For ballot propositions with County Elections Officer of person filing this report.

AMOUNT OR VALUE

*If no reasonable estimate can be made of value, describe activity, services, property or right furnished precisely and attach copy of item produced or distributed.

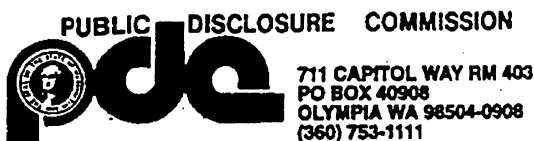
CERTIFICATION: I hereby certify that the above is true, complete and correct to the best of my knowledge.

Signature of person making expenditures

Name

Title

Date



FORM C6 1/90	THIS SPACE FOR OFFICE USE MARK RECEIVED DEC 8 1998
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INDEPENDENT CAMPAIGN EXPENDITURES \$100.00 OR MORE

1. Name and address of person making expenditure

Blethen Corporation
P.O. Box 70
Seattle, WA 98111-0070

2. Check appropriate box
- ☐ One time report. I do not expect to make other independent expenditures.
- ☐ I do expect to make other independent expenditures (See instructions)
- ☒ Final report.

2. Name of candidate or ballot proposition supported or opposed: check ☐ support or ☒ oppose

I-200

3a. List the value of all independent expenditures made if aggregate is \$100 or more. Itemize expenditures of more than \$50 made in support or in opposition to any candidate or ballot proposition during an election campaign. Do not include monetary or in-kind contributions made directly to a candidate or political committee.

Date	Name and address of vendor or recipient	Description of expenditure (Goods, services, or rights purchased or furnished)	Amount or value (*see below)
11/2/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	Advertisement placed in The Seattle Times (Daily)	\$ 9,400
11/3/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" " (Daily)	\$ 696
11/3/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" " (Daily)	\$ 696
11/3/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" " (Daily)	\$ 9,400
Expenditures \$50 or less not itemized above			Page 3 of 3
Total this report period			\$ 58,517.90

3b.

Total independent expenditures made during this election campaign. Include expenditures shown in this report and previously submitted reports.

\$ 274,662.90

INSTRUCTIONS

WHO MUST REPORT:

Persons who make expenditures aggregating \$100 or more during any election campaign in support of or opposition to a candidate or ballot proposition if not made directly to or in coordination with the candidate or a political committee.

WHEN TO REPORT: When aggregate amount reaches:

- | | |
|--|---|
| less than \$100 | — No report is required |
| \$100 or more (or value cannot be estimated) | — Within 5 days |
| If additional expenditures made | — * 10th of month preceding election in which other reports are not required. |
| | * 21 days prior to election |
| | * 7 days prior to election |
| | * 10th day of month after election |

* Required only when expenditures have been made since last report was submitted.

WHERE TO REPORT:

Copy # 1—Public Disclosure Commission.

Copy # 2—County Elections Officer of candidate. For ballot propositions with County Elections Officer of person filing this report.

AMOUNT OR VALUE

* If no reasonable estimate can be made of value, describe activity, services, property or right furnished precisely and attach copy of item produced or distributed.

CERTIFICATION: I hereby certify that the above is true, complete and correct to the best of my knowledge.

Signature of person making expenditures

Carolyn S. Kelly

Name

Sr. Vice President & General Mgr. 12/8/98

Title

Date



PUBLIC DISCLOSURE COMMISSION

711 CAPITOL WAY RM 403
PO BOX 40808
OLYMPIA WA 98504-0908
(360) 753-1111



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OCT 29 1998

INDEPENDENT CAMPAIGN EXPENDITURES
\$100.00 OR MORE

1. Name and address of person making expenditure

Blethen Corporation
PO Box 70
Seattle, WA 98111-0070

2. Check appropriate box
- ☐ One time report. I do not expect to make other independent expenditures.
- ☒ I do expect to make other independent expenditures (See instructions)
- ☐ Final report.

2. Name of candidate or ballot proposition supported or opposed: check ☐ support or ☐ oppose

I-200

3a. List the value of all independent expenditures made if aggregate is \$100 or more. Itemize expenditures of more than \$50 made in support or in opposition to any candidate or ballot proposition during an election campaign. Do not include monetary or in-kind contributions made directly to a candidate or political committee.

Date	Name and address of vendor or recipient	Description of expenditure (Goods, services, or rights purchased or furnished)	Amount or value (* see below)
10/15/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	Advertisement placed in Seattle Times (Daily)	\$ 696
10/16/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	\$ 696
10/17/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	\$ 696
10/18/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Sunday)	\$14,500
10/18/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Sunday)	\$ 1,074
10/19/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	\$ 696
10/20/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	\$ 696

Expenditures \$50 or less not itemized above

Total this report period

Page 1 of 3

\$

3b.

Total independent expenditures made during this election campaign. Include expenditures shown in this report and previously submitted reports.

\$

INSTRUCTIONS

WHO MUST REPORT:

Persons who make expenditures aggregating \$100 or more during any election campaign in support of or opposition to a candidate or ballot proposition if not made directly to or in coordination with the candidate or a political committee.

WHEN TO REPORT: When aggregate amount reaches:

- less than \$100 — No report is required
- \$100 or more (or value cannot be estimated) — Within 5 days
- If additional expenditures made — * 10th of month preceding election in which other reports are not required.
- * 21 days prior to election
- * 7 days prior to election
- * 10th day of month after election

* Required only when expenditures have been made since last report was submitted.

WHERE TO REPORT:

Copy #1—Public Disclosure Commission.

Copy #2—County Elections Officer of candidate. For ballot propositions with County Elections Officer of person filing this report.

AMOUNT OR VALUE

* If no reasonable estimate can be made of value, describe activity, services, property or right furnished precisely and attach copy of item produced or distributed.

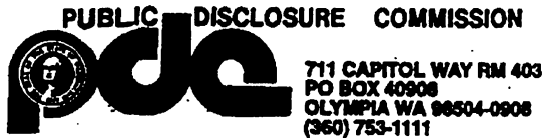
CERTIFICATION: I hereby certify that the above is true, complete and correct to the best of my knowledge.

Signature of person making expenditures

Name

Title

Date



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OCT 29 1998

**INDEPENDENT CAMPAIGN EXPENDITURES
\$100.00 OR MORE**

1. Name and address of person making expenditure

Blethen Corporation
PO Box 70
Seattle, WA 98111-0070

2. Check appropriate box

☐ One time report. I do not expect to make other independent expenditures.☒ I do expect to make other independent expenditures (See instructions)☐ Final report.2. Name of candidate or ballot proposition supported or opposed: check ☐ support or ☐ oppose

I-200

3a. List the value of all independent expenditures made if aggregate is \$100 or more. Itemize expenditures of more than \$50 made in support or in opposition to any candidate or ballot proposition during an election campaign. Do not include monetary or in-kind contributions made directly to a candidate or political committee.

Date	Name and address of vendor or recipient	Description of expenditure (goods, services, or rights purchased or furnished)	Amount or value (*see below)
10/21/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	Advertisement placed in Seattle Times (Daily)	\$ 9,400
10/21/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	\$ 696
10/22/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	\$ 696
10/22/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	\$ 1,984
10/23/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	\$ 696
10/23/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	\$ 696
10/24/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	\$ 696
Expenditures \$50 or less not itemized above			
Total this report period			Page 2 of 3 \$

3b.

Total independent expenditures made during this election campaign.
Include expenditures shown in this report and previously submitted reports.

\$

INSTRUCTIONS

WHO MUST REPORT:

Persons who make expenditures aggregating \$100 or more during any election campaign in support of or opposition to a candidate or ballot proposition if not made directly to or in coordination with the candidate or a political committee.

WHEN TO REPORT: When aggregate amount reaches:

less than \$100

— No report is required

\$100 or more (or value cannot be estimated)

— Within 5 days

If additional expenditures made

— *10th of month preceding election in which other reports are not required.

*21 days prior to election

*7 days prior to election

*10th day of month after election

*Required only when expenditures have been made since last report was submitted.

WHERE TO REPORT:

Copy #1—Public Disclosure Commission.

Copy #2—County Elections Officer of candidate. For ballot propositions with County Elections Officer of person filing this report.

AMOUNT OR VALUE

*If no reasonable estimate can be made of value, describe activity, services, property or right furnished precisely and attach copy of item produced or distributed.

CERTIFICATION: I hereby certify that the above is true, complete and correct to the best of my knowledge.

Signature of person making expenditures

Name

Title

Date



PUBLIC DISCLOSURE COMMISSION

711 CAPITOL WAY RM 403
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111

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OCT 29 1998

**INDEPENDENT CAMPAIGN EXPENDITURES
\$100.00 OR MORE**

1. Name and address of person making expenditure

Blethen Corporation
PO Box 70
Seattle, WA 98111-0070

2. Check appropriate box

- ☐ One time report. I do not expect to make other independent expenditures.
- ☒ I do expect to make other independent expenditures (See instructions)
- ☐ Final report.

2. Name of candidate or ballot proposition supported or opposed: check ☐ support or ☐ oppose

I-200

3a. List the value of all independent expenditures made if aggregate is \$100 or more. Itemize expenditures of more than \$50 made in support or in opposition to any candidate or ballot proposition during an election campaign. Do not include monetary or in-kind contributions made directly to a candidate or political committee.

Date	Name and address of vendor or recipient	Description of expenditure (Goods, services, or rights purchased or furnished)	Amount or value (*see below)
10/25/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	Advertisement place in Seattle Times (Sunday)	\$ 1,074
10/25/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Sunday)	\$14,500
10/25/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Sunday)	\$ 3,061
10/26/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	\$ 696
10/27/98	The Seattle Times, PO Box 70, Seattle, WA 98111-0070	" (Daily)	\$ 696
Expenditures \$50 or less not itemized above			
Total this report period			\$ 53,945

3b.

Total independent expenditures made during this election campaign. Include expenditures shown in this report and previously submitted reports.

\$

INSTRUCTIONS

WHO MUST REPORT:

Persons who make expenditures aggregating \$100 or more during any election campaign in support of or opposition to a candidate or ballot proposition if not made directly to or in coordination with the candidate or a political committee.

WHEN TO REPORT: When aggregate amount reaches:

- less than \$100 — No report is required
- \$100 or more (or value cannot be estimated) — Within 5 days
- If additional expenditures made — * 10th of month preceding election in which other reports are not required.
- * 21 days prior to election
- * 7 days prior to election
- * 10th day of month after election

* Required only when expenditures have been made since last report was submitted.

WHERE TO REPORT:

Copy #1—Public Disclosure Commission.

Copy #2—County Elections Officer of candidate. For ballot propositions with County Elections Officer of person filing this report.

AMOUNT OR VALUE

*If no reasonable estimate can be made of value, describe activity, services, property or right furnished precisely and attach copy of item produced or distributed.

CERTIFICATION: I hereby certify that the above is true, complete and correct to the best of my knowledge.

Signature of person making expenditures

Name

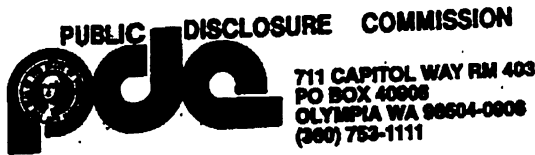
Carolyn S. Kelly

10/29/98

Title

Date

Sr. Vice President & General Manager



FORM
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 1/80

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OCT 9 1998

INDEPENDENT CAMPAIGN EXPENDITURES

\$100.00 OR MORE

1. Name and address of person making expenditure

Blethen Corporation
 PO Box 70
 Seattle, WA 98111-0070

2. Check appropriate box:
- ☐ One time report. I do not expect to make other independent expenditures.
- ☒ I do expect to make other independent expenditures (See instructions)
- ☐ Final report.

2. Name of candidate or ballot proposition supported or opposed: check ☐ support or ☐ oppose

I-200

3a. List the value of all independent expenditures made if aggregate is \$100 or more. Itemize expenditures of more than \$50 made in support or in opposition to any candidate or ballot proposition during an election campaign. Do not include monetary or in-kind contributions made directly to a candidate or political committee.

Date	Name and address of vendor or recipient	Description of expenditure (goods, services, or rights purchased or furnished)	Amount or value ("see below")
9/10/98	The Seattle Times, PO Box 70 Seattle, WA 98111-0070	Furnished full page ad in Seattle Times	\$9,400
9/13/98	The Seattle Times, PO Box 70 Seattle, WA 98111-0070	" (Sunday)	\$14,500
9/16/98	The Seattle Times, PO Box 70 Seattle, WA 98111-0070	" (Daily)	\$9,400
9/20/98	The Seattle Times, PO Box 70 Seattle, WA 98111-0070	" (Sunday)	\$14,500
9/24/98	The Seattle Times, PO Box 70 Seattle, WA 98111-0070	" (Daily)	\$9,400
9/27/98	The Seattle Times, PO Box 70 Seattle, WA 98111-0070	" (Sunday)	\$14,500
9/30/98	The Seattle Times, PO Box 70 Seattle, WA 98111-0070	" (Daily)	\$9,400
10/8/98	The Seattle Times, PO Box 70 Seattle, WA 98111-0070	" (Daily)	\$9,400
Expenditures \$50 or less not itemized above			Page 1 of 2
Total this report period			\$
Total independent expenditures made during this election campaign. Include expenditures shown in this report and previously submitted reports.			\$

3b.

INSTRUCTIONS

WHO MUST REPORT:

Persons who make expenditures aggregating \$100 or more during any election campaign in support of or opposition to a candidate or ballot proposition if not made directly to or in coordination with the candidate or a political committee.

WHEN TO REPORT: When aggregate amount reaches:

less than \$100
 \$100 or more (or value cannot be estimated)
 If additional expenditures made

- No report is required
- Within 5 days
- * 10th of month preceding election in which other reports are not required.
- * 21 days prior to election
- * 7 days prior to election
- * 10th day of month after election

* Required only when expenditures have been made since last report was submitted.

WHERE TO REPORT:

Copy # 1—Public Disclosure Commission.

Copy # 2—County Elections Officer of candidate. For ballot propositions with County Elections Officer of person filing this report.

AMOUNT OR VALUE

* If no reasonable estimate can be made of value, describe activity, services, property or right furnished precisely and attach copy of item produced or distributed.

CERTIFICATION: I hereby certify that the above is true, complete and correct to the best of my knowledge.

Signature of person making expenditures

Name

Title

Date



PUBLIC DISCLOSURE COMMISSION

711 CAPITOL WAY RM 403
PO BOX 40608
OLYMPIA WA 98504-0608
(360) 753-1111

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1/90

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PM
MARK
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OCT 9 1998

INDEPENDENT CAMPAIGN EXPENDITURES

\$100.00 OR MORE

1. Name and address of person making expenditure

Blethen Corporation
PO Box 70
Seattle, WA 98111-0070

2. Check appropriate box

☐ One time report. I do not expect to make other independent expenditures.

☒ I do expect to make other independent expenditures (See instructions)

☐ Final report.

2. Name of candidate or ballot proposition supported or opposed: check ☐ support or ☐ oppose

I-200

3a. List the value of all independent expenditures made if aggregate is \$100 or more. Itemize expenditures of more than \$50 made in support or in opposition to any candidate or ballot proposition during an election campaign. Do not include monetary or in-kind contributions made directly to a candidate or political committee.

Date	Name and address of vendor or recipient	Description of expenditure (goods, services, or rights purchased or furnished)	Amount or value ("see below")
10/9/98	The Seattle Times, PO Box 70 Seattle, WA 98111-0070	Furnished a full pge ad in Seattle Times (daily)	\$9,400
10/10/98	The Seattle Times, PO Box 70 Seattle, WA 98111-0070	"	\$9,400
10/11/98	The Seattle Times, PO Box 70 Seattle, WA 98111-0070	" (Sunday)	\$14,500
Expenditures \$50 or less not itemized above			

Total this report period

\$ 123,800

3b.

Total independent expenditures made during this election campaign. Include expenditures shown in this report and previously submitted reports.

\$

INSTRUCTIONS

WHO MUST REPORT:

Persons who make expenditures aggregating \$100 or more during any election campaign in support of or opposition to a candidate or ballot proposition if not made directly to or in coordination with the candidate or a political committee.

WHEN TO REPORT: When aggregate amount reaches:

less than \$100

—No report is required

\$100 or more (or value cannot be estimated)

—Within 5 days

If additional expenditures made

— *10th of month preceding election in which other reports are not required.
*21 days prior to election
* 7 days prior to election
* 10th day of month after election

*Required only when expenditures have been made since last report was submitted.

WHERE TO REPORT:

Copy #1—Public Disclosure Commission.

Copy #2—County Elections Officer of candidate. For ballot propositions with County Elections Officer of person filing this report.

AMOUNT OR VALUE

*If no reasonable estimate can be made of value, describe activity, services, property or right furnished precisely and attach copy of item produced or distributed.

CERTIFICATION: I hereby certify that the above is true, complete and correct to the best of my knowledge.

Signature of person making expenditure

F. B. Blethen

Name

Publisher & CEO

10/9/98

Title

Date



PUBLIC DISCLOSURE COMMISSION

711 CAPITOL WAY RM 403
PO BOX 40908
OLYMPIA WA 98504-0908
(360) 753-1111

FORM
C6
1/80

THIS SPACE FOR OFFICE USE

RECEIVED

SEP 10 1998

RECEIVED
PUBLIC DISCLOSURE COMMISSION

**INDEPENDENT CAMPAIGN EXPENDITURES
\$100.00 OR MORE**

1. Name and address of person making expenditure

Blethen Corporation
P.O. Box 70
Seattle, WA 98111-0070

2. Check appropriate box
- ☐ One time report. I do not expect to make other independent expenditures.
- ☒ I do expect to make other independent expenditures (See instructions)
- ☐ Final report.

2. Name of candidate or ballot proposition supported or opposed: check ☐ support or ☒ oppose

I-200

3a. List the value of all independent expenditures made if aggregate is \$100 or more. Itemize expenditures of more than \$50 made in support or in opposition to any candidate or ballot proposition during an election campaign. Do not include monetary or in-kind contributions made directly to a candidate or political committee.

Date	Name and address of vendor or recipient	Description of expenditure (goods, services, or rights purchased or furnished)	Amount or value (*see below)
9/3/98	Seattle Times P.O. Box 70 Seattle, WA 98111-0070	Furnished full page ad in Seattle Times daily	\$9,400
9/6/98	Seattle Times P.O. Box 70 Seattle, WA 98111-0070	Furnished full page ad in Seattle Times Sunday	\$14,500
Expenditures \$50 or less not itemized above			
Total this report period			\$ 23,900
3b. Total independent expenditures made during this election campaign. Include expenditures shown in this report and previously submitted reports.			\$ 38,400

INSTRUCTIONS

WHO MUST REPORT:

Persons who make expenditures aggregating \$100 or more during any election campaign in support of or opposition to a candidate or ballot proposition if not made directly to or in coordination with the candidate or a political committee.

WHEN TO REPORT: When aggregate amount reaches:

- less than \$100 — No report is required
- \$100 or more (or value cannot be estimated) — Within 5 days
- If additional expenditures made — * 10th of month preceding election in which other reports are not required.
- * 21 days prior to election
- * 7 days prior to election
- * 10th day of month after election

* Required only when expenditures have been made since last report was submitted.

WHERE TO REPORT:

Copy #1—Public Disclosure Commission.

Copy #2—County Elections Officer of candidate. For ballot propositions with County Elections Officer of person filing this report.

AMOUNT OR VALUE

* If no reasonable estimate can be made of value, describe activity, services, property or right furnished precisely and attach copy of item produced or distributed.

CERTIFICATION: I hereby certify that the above is true, complete and correct to the best of my knowledge.

Signature of person making expenditures

F. A. Blethen

Name

Pres. Blethen Corp. 9/10/98

Title

Date

APPENDIX 2

Measures

Initiative Measure 900

Proposed by Initiative Petition

Official Ballot Title:

Initiative Measure No. 900 concerns performance audits of governmental entities.

This measure would direct the State Auditor to conduct performance audits of state and local governments, and dedicate 0.16% of the state's portion of sales and use tax collections to fund these audits.

Should this measure be enacted into law?

Yes ☐ No ☐

The Official Ballot Title and Explanatory Statement were written by the Attorney General as required by law.

View complete text: [PDF](#)

Fiscal Impact Statement**Summary of Fiscal Impact**

Initiative 900 would reduce state sales-and-use tax revenue flowing to the state fund that finances general government services. It directs that 0.16 percent of this revenue go to a new Performance Audits of Government Account to pay for performance audits of state and local governments. An estimated \$17 million would be deposited in the account instead of the state General Fund in the 2005-07 Biennium, and an estimated \$25 million would be deposited in the 2007-09 Biennium. Tax revenue in the General Fund pays for state services including education, social, health, and environmental services, and general government activities.

Assumptions for Fiscal Analysis of I-900

The estimates of the amount of sales-and-use tax revenue that would be deposited in the Performance Audits of Government Account is determined by applying the 0.16 percent diversion rate specified in the Initiative to the sales-and-use tax collections projected in the June 2005 revenue forecast produced by the state Economic and Revenue Forecast Council.

The General Fund reduction of \$17 million estimated for the 2005-07 Biennium assumes an effective date for the Initiative of Dec. 8, 2005. The General Fund reduction of \$25 million that is estimated for the 2007-09 Biennium reflects the fiscal impact of the Initiative over a full, 24-month biennium.

Explanatory Statement**The law as it presently exists:**

Two state agencies have authority to conduct performance audits of governmental entities: the Joint Legislative Audit and Review Committee (JLARC) and the State Auditor's office. JLARC is a joint committee of the Legislature, created by statute, consisting of eight members of each house of the Legislature. No more than four members from each house may be of the same political party. JLARC employs a Legislative Auditor and other staff, and has authority to conduct a performance audit of any state agency or program. "Performance audit" is defined as "an objective and systematic assessment of a state agency or any of its programs, functions, or activities, or a unit of local government receiving state funds, by an independent evaluator in order to help public officials improve efficiency, effectiveness, and accountability." JLARC audits local governments only to determine if they are properly using state funds. In addition, upon the request of the Legislative Transportation Committee, a bi-partisan committee comprised of four members of each house of the Legislature, JLARC conducts performance audits of "transportation-related agencies," defined as state agencies, boards or commissions that receive funding primarily for transportation-related purposes.

The State Auditor is one of the state's constitutional statewide officers, elected by the people to a four-year term. The State Auditor conducts periodic financial and legal compliance audits of both state and local government agencies, as well as entities receiving state contracts or grants. These audits include: examinations of the accounts of all collectors of public revenue; inspections of the books of persons charged with receiving, safekeeping, or disbursing public funds; and investigations relating to "whistleblower" activities. The State Auditor has authority to conduct performance audits, as expressly authorized by the Legislature in the budget or within a work plan approved by JLARC.

In addition, the 2005 Legislature created a citizen advisory board to develop a work plan for the conduct of performance audits. The State Auditor is authorized to contract out for performance audits, following the plan developed by the board. The State Auditor and the Legislative Auditor are both non-voting members of the committee, along with the Director of the Office of Financial Management. The voting members are four citizens nominated by the legislative caucuses and appointed by the Governor, and three more citizen members appointed by the Governor. The citizen board establishes criteria for performance audits consistent with the standards followed by JLARC. A local agency may request the State Auditor to conduct a performance audit, to be conducted under separate contract and paid for with local funds.

The effect of the proposed measure, if it becomes law:

In addition to authority previously granted, Initiative Measure 900 would direct the State Auditor to conduct comprehensive performance audits of all state and local government units, including all agencies and programs in the executive, judicial, and legislative branches of state and local government. The State Auditor would be authorized to contract out for performance audits. Agencies would be required to conduct

hearings and to issue periodic reports on the extent to which the Auditor's performance audit recommendations have been implemented.

Beginning on December 8, 2005, the measure would require that 0.16% (sixteen one-hundredths of one percent) of revenue from the state portion of the state sales tax be dedicated to funding performance audits. The revenue would be placed in a separate account in the state treasury. Only the State Auditor or the Auditor's designee could authorize expenditures from the account. The new account would be subject to allotment procedures but would not require an appropriation for expenditures.

**Statement For
Initiative Measure 900**

**STATE AND LOCAL GOVERNMENTS SPEND
OVER \$40 BILLION EVERY YEAR,
YET IT'S ILLEGAL FOR US...**

...to learn if these revenues are being spent as cost-effectively as possible. That's absurd and I-900 changes that. I-900 provides the State Auditor with substantial, stable funding – about \$10 million per year – to independently investigate both the efficiency and effectiveness of state and local governments, their agencies and programs. I-900 dedicates a tiny portion of the existing sales tax to fund this long-overdue reform. \$10 million to ensure \$40 billion is spent effectively? That's a bargain.

**THERE ARE OVER 2000 GOVERNMENTAL
ENTITIES
IN WASHINGTON –
I-900 PUTS THEM ALL ON NOTICE**

I-900 gives the State Auditor the authority to examine any state or local government, agency, program, or account. I-900 grants the Auditor subpoena power to obtain all budgets and internal documents necessary for a full accounting. Savings will not only be realized from agencies audited, but from all state and local governments who realize that under I-900, they could be next. It's called accountability.

**WASHINGTON IS THE 8TH HIGHEST TAXED
STATE
IN THE NATION (WWW.TAXFOUNDATION.ORG)
–
I-900 KEEPS US...**

...from hitting #1. I-900 will identify wasteful, ineffective, and unnecessary government programs and agencies, showing politicians how to reform government and prioritize spending without raising taxes. I-900 will change government forever.

**OLYMPIA'S LAST MINUTE ALTERNATIVE TO I-
900
ISN'T EVEN CLOSE – I-900 IS THE
900 POUND GORILLA**

Olympia prohibited independent audits for over 40 years, but when they saw the popularity and support for I-900, they frantically passed a weak alternative. Olympia's version lets a "citizen" commission, all handpicked by Olympia politicians, decide who does and who doesn't get audited – I-900 gives the State Auditor that authority. Olympia's version lets local governments off the hook – I-900 holds all levels of government accountable. I-900 provides stable funding – Olympia's version doesn't. Please Vote Yes.

For more information, visit www.i-900.com or call 425.493.8707.

Rebuttal of Statement Against

**Statement Against
Initiative Measure 900**

**I-900 GOES TOO FAR AND WASTES TAXPAYER'S
DOLLARS**

Everyone wants government to operate efficiently, and performance reviews are a tool to achieve efficiency when done wisely and with common sense. But, this initiative lacks common sense:

1. Local citizens and their locally elected officials should establish their own goals and priorities, not Olympia;

2. Local governments will have to spend scarce staff time and local taxpayer dollars to collect data for the audits;

3. One size does not fit all. There are over 2,000 units of local government, from large metropolitan cities and counties to small rural mosquito control and irrigation districts. They all have different purposes and responsibilities. Is it really appropriate to compare a unit of government of 300 to a unit of government of 300,000?

I-900 IS UNNECESSARY AND DUPLICATIVE

The 2005 Legislature passed two performance audit bills, one for Department of Transportation programs and another for state agencies. Many local governments already provide accountability by conducting their own performance reviews. This initiative is an unnecessary duplication that would add another layer of government and cost tens of millions of tax dollars.

Before you vote, ask yourself – Would you really trust one partisan elected state official to tell your local government what to do?

**WE HOPE YOU WILL ANSWER NO AND
VOTE NO ON INITIATIVE 900.**

Rebuttal of Statement For

It's flat wrong to claim it's illegal to learn how revenues are spent. Local government budgets are public documents – open to scrutiny and adopted with public input.

Local governments are already most accountable to their citizens. It's more important to be accountable to local voters than to a partisan state official.

Current legislation requires an impartial

Opponents' only objection is that I-900 is "unnecessary" because Olympia passed its own audit bill. But the lead sponsor of that legislation, Democrat Mark Miloscia, admits that he's voting for I-900. He thinks I-900 is dramatically better than Olympia's watered-down bill. So do we.

Hearing politicians complain about I-900's cost is laughable – \$10 million per year to ensure cost-effective spending of \$40 billion per year? That's a bargain. Taxpayers demand accountability. Please Vote Yes.

Voters' Pamphlet Argument Prepared by:

ERMA TURNER, beauty shop owner, gathered 1367 signatures, Cle Elum; MIKE SIEGEL, KTTN 770 AM radio host and activist, Seattle; MIKE DUNMIRE, retired businessman and enthusiastic supporter of I-900, Bothell; JACK FAGAN, retired policeman, retired Navy, grandfather, campaign organizer, Spokane; MIKE FAGAN, small businessman, community leader, father, campaign organizer, Spokane; TIM EYMAN, \$30 car tab guy, taxpayer advocate, Yakima/Mukilteo.

citizens advisory board set performance criteria for state agencies. I-900 instead creates a bureaucratic, costly process.

Please Vote No.

Voters' Pamphlet Argument Prepared by:

PAM CARTER, President, Association of Washington Cities; CHRIS DUGOVICH, Washington State Council of County and City Employees; DR. RICHARD JOHNSON, Superintendent, Okanogan School District; BOB BEERBOWER, Grays Harbor County Commissioner; MARY PLACE, Yakima City Council; STEVEN D. JENKINS, Mayor, City of Bridgeport.

The Office of the Secretary of State is not authorized to edit statements, nor is it responsible for their contents.

APPENDIX 3

EXPENDITURES CONTINUATION SHEET (Attachment to Schedule A)

Page 1

Candidate or Committee Name (Do not abbreviate. Use full name.)

Report Date

YES912.COM

11/01/2005

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Amount
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KO MP	\$ 1,324.00
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KE LA	1,477.00
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KM NA	2,040.00
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KP Q	5,967.00
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KI T/KDBL	3,947.14
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KO RD	3,154.69
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KQ NT	2,356.20
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KO NA	3,940.80
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KX LY	5,650.00
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KA RY	3,855.60
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KX DD	5,764.80
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KY SN	1,560.60

Page Total \$ 41,037.83

EXPENDITURES CONTINUATION SHEET (Attachment to Schedule A)

Page 2

Candidate or Committee Name (Do not abbreviate. Use full name.)

Report Date

YES912.COM

11/01/2005

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Amount
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KX RD/KDUX	\$ 2,227.68
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KA FE	1,703.40
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KG MI	2,203.20
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KK RT/KKRV	1,493.28
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KD RK	2,646.90
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KE YF	2,295.00
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KG A	1,877.36
10/25/2005	RICHARD FUHRMAN 11203 EAST RIVERSIDE DRIVE BOTHELL WA 98011	G	OFFICE SUPPLIES	385.21
10/27/2005	JOSHUA FREED 14704 100TH AVENUE NE BOTHELL WA 98011	P	POSTAGE/MAILING PERMITS	226.39
10/27/2005	JOSHUA FREED 14704 100TH AVENUE NE BOTHELL WA 98011	G	TELEPHONE EXPENSE	217.60
10/27/2005	AUTOCALL 7300 HUDSON BLVD. SOUTH, #270 ST. PAUL MN 55128	G	TELEPHONE EXPENSE	3,000.00
10/28/2005	KAARE NESS 15206 63RD AVENUE WEST EDMONDS WA 98026	M	MANAGEMENT/CONSULTING SERVIC ES	500.00

Page Total \$ 18,776.02

EXPENDITURES CONTINUATION SHEET (Attachment to Schedule A)

Page 3

Candidate or Committee Name (Do not abbreviate. Use full name.)

Report Date

YES912.COM

11/01/2005

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Amount
10/28/2005	RICHARD FUHRMAN 11203 EAST RIVERSIDE DRIVE BOTHELL WA 98011	M	MANAGEMENT/CONSULTING SERVICES	\$ 750.00
10/28/2005	U.S. POSTMASTER 721 4TH AVENUE KIRKLAND WA 98033	P	POSTAGE/MAILING PERMITS	450.25
10/28/2005	U.S. POSTMASTER 721 4TH AVENUE KIRKLAND WA 98033	P	POSTAGE/MAILING PERMITS	1,326.10
10/31/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KB SG	5,308.00
10/31/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KO MO	4,998.00
10/31/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KT TH	2,040.00
10/31/2005	PACIFICOM 14241 NE WOODINVILLE-DUVALL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR KW JZ	3,304.00
10/31/2005	ZENTERK MEDIA 130 SOUTH GRAND AVENUE PULLMAN WA 99163	G	GENERAL OPERATION AND OVERHEAD	297.50

Page Total \$ 18,473.85

100145177

CASH RECEIPTS AND EXPENDITURE

SCHEDULE to C4

A

(11/93)

Candidate or Committee Name (Do not abbreviate. Use full name.)

Report Date

YES912.COM

11/01/2005

1. CASH RECEIPTS (Contributions) which have been reported on C3. List each deposit made since last C4 report was submitted.

Date of deposit	Amount	Date of deposit	Amount	Date of deposit	Amount	Total deposits
10/22/2005	4,530.00	10/24/2005	1,425.00	10/27/2005	1,245.00	
10/22/2005	525.00	10/25/2005	1,950.00	10/28/2005	1,030.00	
10/23/2005	788.00	10/26/2005	1,488.00	See attached		

Enter also on line 2 of C4 \$ 18,901.00

2 TOTAL CASH RECEIPTS

CODES FOR CLASSIFYING EXPENDITURES: If one of the following codes is used to describe an expenditure, no other description is generally needed. The exceptions are:

- If expenditures are in-kind or earmarked contributions to a candidate or committee or independent expenditures that benefit a candidate or committee, identify the candidate or committee in the Description block;
- When reporting payments to vendors for travel expenses, identify the traveler and travel purpose in the Description block; and
- If expenditures are made directly or indirectly to compensate a person or entity for soliciting signatures on a statewide initiative or referendum petition, use code "V" and provide the following information on an attached sheet: name and address of each person/entity compensated, amount paid each during the reporting period, and cumulative total paid all persons to date to gather signatures.

CODE
DEFINITIONS
ON NEXT PAGE

C - Contributions (monetary, in-kind & transfers)
I - Independent Expenditures
L - Literature, Brochures, Printing
B - Broadcast Advertising (Radio, TV)
N - Newspaper and Periodical Advertising
O - Other Advertising (yard signs, buttons, etc.)
V - Voter Signature Gathering

P - Postage, Mailing Permits
S - Surveys and Polls
F - Fundraising Event Expenses
T - Travel, Accommodations, Meals
M - Management/Consulting Services
W - Wages, Salaries, Benefits
G - General Operation and Overhead

3. EXPENDITURES

- Expenditures of \$50 or less, including those from petty cash, need not be itemized. Add up these expenditures and show the total in the amount column on the first line below.
- Itemize each expenditure of more than \$50 by date paid, name and address of vendor, code/description, and amount.
- For each payment to a candidate, campaign worker, PR firm, advertising agency or credit card company, attach a list of detailed expenses or copies of receipts/invoices supporting the payment.

Date Paid	Vendor or Recipient (Name and Address)	Code	Purpose of Expense and/or Description	Amount
10/23/2005	SILICON FOREST CONSULTING 4445 143RD PLACE NE BELLEVUE WA 98007	G	GENERAL OPERATION AND OVERHEAD	\$ 300.00
10/23/2005	DIALING SERVICES LLC 5149 COTTON ROAD ROSWELL NM 88201	G	TELEPHONE EXPENSE	6,256.68
10/24/2005	TACEY LAMB LLP 22833 BOTHELL-EVERETT HIGHWAY, #218 BOTHELL WA 98021	M	LEGAL EXPENSE	5,000.00
10/24/2005	KAARE NISS 15206 63RD AVENUE WEST EDMONDS WA 98026	M	MANAGEMENT/CONSULTING SERVICES	625.00
10/24/2005	U.S. POSTMASTER 721 4TH AVENUE KIRKLAND WA 98033	P	POSTAGE/MAILING PERMITS	129.00
10/24/2005	MADISON COMMUNICATIONS CORP. 610 MARKET STREET, #201 KIRKLAND WA 98033		PRINTING	5,850.00
10/25/2005	PACIFICOM 14241 NE WOODINVILLE-DUVAL ROAD WOODINVILLE WA 98072	B	BROADCAST ADVERTISING FOR CREATIVE/PRODUCTION	5,505.35
				78,281.70

Total from attached pages \$ 78,281.70

4 TOTAL CASH EXPENDITURES

Enter also on line 11 of C4 \$101,953.73

APPENDIX 4

The broadcast industry has become one of Washington's most feared economic special interests, creating more and more ethical conflicts for news outlets. And too many journalists are playing right along.

Research for this article was supported by a grant from the Fund for Investigative Journalism.

Lobbying

When news executives decide to throw their political weight around, they have plenty of ways to do it, some subtle and some crude. Gloria Tristani got the crude treatment as she prepared for a 2002 Senate race in her home state of New Mexico.

Tristani was a member of the Federal Communications Commission, which was considering a plan to license hundreds of tiny, low-power radio stations across the country. The broadcast industry hated this, and its main lobbying arm, the National Association of Broadcasters, was threatening court action and other dire measures. Broadcasters were "taking off the gloves," the NAB's president warned.

As the low-power plan neared a vote at the FCC, Tristani started hearing from radio and TV people back home.

She told me that Jerry Danziger, vice chairman of Albuquerque's KOB-TV and a board member of the New Mexico Broadcasters Association, tried to use her Senate race as leverage. She said he told her, "If you're coming back here to run for Congress, you'd better not vote for low power, because you won't get on a radio or TV station again."

Tristani said Danziger made the threat twice—once to a member of her staff and a second time to her personally. She voted for low power anyway. Broadcasters supported her opponent (the NAB gave him \$10,000), and she lost the election. Tristani said she didn't know whether the dispute really did affect coverage, but "it was always in the back of my head."

Danziger says he doesn't recall making such a threat. He suggested I check with Paula Maes, head of the New Mexico Broadcasters Association. Maes confirms that the statement was made. But she says it "was a statement that was made by one broadcaster"—she refused to name him—"and the

statement was prefaced by, 'This is my position, as an individual broadcaster. This is not the position of the New Mexico broadcasters.'"

Sen. Bob Dole received an even bolder threat in 1996 while running for president. Congress was considering a bill to give TV stations, free of charge, a large expanse of the digital broadcast spectrum, worth an estimated \$70 billion. Dole, a Kansas Republican, called it "the giveaway of the century." He wanted stations to pay for this valuable resource.

The NAB and the 50 state broadcasters associations came out fighting. Hundreds of stations ran a public service ad claiming that Congress was about to pass "a TV tax" that would "destroy free TV."

While Dole was campaigning in Iowa he was handed a letter from Nick Evans, an NAB board member. Evans headed a chain of 11 stations in Iowa, Kansas, South Carolina, Georgia and Florida.

After a few introductory pleasantries, the letter said:

"If over the next few days your position on spectrum has not changed and been made public, you will have lost my support. I will be forced to use our resources to tell the viewers in all of our markets of your plan to destroy free over-the-air television. I will be forced to tell the over 700 employees of our company of your plan and encourage their support of another Presidential candidate. I have spoken with many other broadcasters who feel the same as I do."

The threat apparently worked. Dole stopped talking about the spectrum giveaway, and the NAB's version of the bill passed. After the election, a Dole staffer gave a copy of Evans' letter to J.H. Snider of the New America Foundation, a Washington think tank, who published it in an academic paper.

The stations Evans ran have since been sold, but I phoned him at his home in Augusta, Georgia, and asked what he

Juggernaut

BY CHARLES LAYTON

might have done against Dole, had it come to that. He said he could have used his stations "to report what we believed to be the facts, and sometimes those facts become positions on an issue."

He repeated the claim in his letter that he thought other broadcasters felt as he did. "I know that I had spoken with others and that others felt similar to what I was stating there. Whether or not they would have followed through was not my goal.... I could only speak for myself." When asked what other broadcasters had thought of his letter, Evans said, "Most everybody I heard from was supportive."

Media lobbyists seldom bare their fangs quite so nakedly. They don't have to. "Their lobbying is so effective, they hardly have to flick an eyelash," says Patricia Schroeder, a former Colorado congresswoman.

"Members of Congress are completely and totally dependent on the media," says Joel Barkin, communications director for Rep. Bernie Sanders (I-Vt.), "and you can't think that there's not a conflict of interest here when the head of Viacom [which owns CBS] is lobbying, saying loosen these regulations, and at the same time we're going to give you coverage. Whether they say it's a conflict of interest or not, it's impossible not to see that connection."

Gene Kimmelman, a former Senate aide who now heads the Washington office of Consumers Union, speaks of "a mystique of media power" in Washington. He says, "Congressmen often wonder, if they come out looking bad on TV, was that in retaliation for something?"

As an interest group, the media include not just professional associations like the NAB but also powerful companies like General Electric (which owns NBC), Viacom, Disney (which owns ABC) and News Corp. (which

owns Fox). Their interests are so diverse as to touch on nearly every big issue newspeople cover—tax policy, health care, environmental regulation, insurance regulation, financial services regulation, labor law, equal employment opportunity rules, defense spending, global trade policy and even sports.

It's understandable that politicians would fear such concentrated power. But they might fear it just a little less if the very people who deliver the news for these companies were not so often involved in their lobbying and public relations.

The fact is, broadcast journalists are routinely found at industry conventions in places like Las Vegas, mingling and talking with government policymakers

about broadcasters' legislative and regulatory concerns. Many journalists let themselves be displayed at dinners and awards ceremonies before mixed crowds of advertisers, media industry lobbyists, government regulators and lawmakers. Their professional associations throw dinners in honor of the very politicians they cover. And when a polished speaker is needed to bestow an award on some

National Association of Broadcasters
President and CEO Edward O. Fritts
(right) with NAB Joint Board Chairman
Philip Lombardo, at a Washington,
D.C., press conference in March. The
NAB is a powerful lobbying force in the
nation's capital.



AP PHOTO/MANUEL BALCE CENETA

key member of Congress, a TV news personality sometimes steps up to do the honors. News reporters are occasionally even found lobbying shoulder to shoulder with their corporate brethren on Capitol Hill. They seem not to consider the damage this does to ethical standards honed over the decades by the news profession.

The message to policymakers is, of course, that these journalists are on board with the business side of the industry, that they understand the industry's economic interests and agree with its points of view.

For politicians to believe in the media's power to reward and punish—including its power to make good on threats such as the ones Dole and Tristani received—they must believe that the people who lobby them can also influence the news. And while many journalists deny this, there is growing evidence that this is the case. When newspeople join forces with lobbying groups, the impression is reinforced.

Last year, the Alaska Broadcasters Association inducted Sen. Ted Stevens (R-Alaska) into its Hall of Fame. Stevens is important because if Republicans keep control of the Senate next year, he becomes chairman of the Commerce Committee, which handles most important media-related bills.

The Hall of Fame dinner was at an Anchorage hotel ballroom before a crowd that included journalists, politicians and businesspeople. It was a way of saying thank you to Stevens because, as the association put it, he "maintains a close working relationship" with broadcasters "and consistently supports legislation that protects the interests of the broadcasting industry. His close connection with the Federal Communications Commission has resulted in establishing Alaska Day at the FCC and in bringing FCC Chairman Michael Powell to Alaska."

John Tracy, a news director and anchor for KTUU-TV, was the evening's master of ceremonies. KTUU is the leading news station in Anchorage, and Tracy is a respected journalist there. He and his station have won prizes for news coverage, including an Edward R. Murrow Award in 1990 for a documentary on the Exxon Valdez oil spill.

When I asked Tracy if he thought it was a breach of ethics for Alaska's most visible newsmen to preside at a dinner for its most powerful politician, he said no, because Walter Cronkite had also been honored that evening. Tracy

said he didn't even know in advance that Stevens would be getting an award. "I was so focused on the Walter Cronkite deal," he said, "and it's quite possible they said we're going to give Ted something too."

All the state associations work cooperatively on most issues with the NAB, which is considered the most powerful of all media lobbying groups. Meredith McGehee, who heads the Alliance for Better Campaigns, says when she brings up an issue with congressional staffers, "They'll say, 'How does the NAB stand on this?' And if the NAB is against it, they'll say, 'You haven't got a chance.'"

The NAB is huge. It reported total net assets of \$66.7 million in 2003. It owns its own building, an imposing edifice on N Street in downtown Washington. It takes in more than \$50 million a year from membership dues, conventions, seminars, sales of merchandise and other activities, and its annual payroll exceeds \$12.5 million, which includes the \$995,000 salary it paid to its top executive, Edward O. Fritts, according to public records. Its travel budget exceeds \$1 million a year. It reported spending \$3.7 million on lobbying in 2003. And over the past four years, according to the Center for Responsive Politics, it has given more than \$2.2 million to candidates for federal office, nearly two-thirds of that to Republicans.

Its largesse buys the NAB extraordinary access. After George W. Bush's election, Fritts served on Bush's FCC transition team, which recommended appointments to the very agency Fritts' organization lobbies on a daily basis. (Fritts declined to be interviewed for this story.)

Last year the Center for Public Integrity reported on the free trips and entertainment lavished on FCC officials by industries that the agency regulates. The biggest single sponsor of those trips, over an eight-year period, was the NAB, which spent \$191,472 to pay for 206 trips to Las Vegas and elsewhere for FCC commissioners and staff members. After some senators pressured the FCC to stop accepting these freebie trips, their frequency declined. But the center reported in April that FCC employees were still taking trips paid for by the NAB and various state broadcasters associations.

Like virtually all big lobbying operations, the NAB recruits people from Washington's familiar and often-criticized "revolving door." Its latest major hire, Marsha MacBride, was chief of staff to the chairman of the FCC before joining the NAB last year as its head of legal and regulatory affairs. Normally, federal law requires a one-year cooling-off period before ranking public employees can lobby their old agencies, but MacBride made the transition in just a few months, due to a loophole that Congress is now trying to close.

The archives of Investigative Reporters and Editors are rich with stories about all of the above practices, as conducted by the oil industry, the pharmaceutical industry, the defense industry and others. Phrases like "legal corruption" turn up in the headlines of these stories. But unlike other big influence-peddling groups in Washington, the broadcasting lobby seems relatively immune to such exposure by the media. Even if they cared to report on it, many newspeople would have a conflict of interest, because they have worked in cooperation with that lobby.

For instance, the NAB holds a Service to America symposium each year in Washington. The trade magazine *Broadcasting & Cable*, which is a sponsor of that event, has described its purpose as follows: "The annual event draws top industry executives, but it is really meant for the policymakers who attend and sometimes participate in the programs." The magazine called it "a showy way to display NAB's power and public interest." In other words, it's a PR event by a major lobbying organization.

NBC News White House correspondent David Gregory gave a keynote luncheon address this year, and Deborah Norville of MSNBC was master of ceremonies at a black-tie awards dinner that evening, where a humanitarian award was given to Nancy Goodman Brinker, one of the elite Bush campaign contributors known as "pioneers." This particular award always seems to go to someone political, and the NAB always finds a journalist to preside over the ceremony. Last year, when Laura Bush got the award, the emcee was Bob Schieffer of CBS. Others on the program that year were U.S. Reps. Mark Foley and Ileana Ros-Lehtinen, both Florida Republicans. The year before that, when the award went to New York Mayor Rudy Giuliani, Cokie Roberts of ABC presided, sharing the stage with several politicians besides



ABC News' Sam Donaldson (right) interviewing FCC Chairman Michael Powell at the National Association of Broadcasters' convention in Las Vegas last April. Donaldson raised a number of the industry's major lobbying concerns.

Giuliani, including Tom Ridge, the secretary of homeland security.

Another power display—far more extravagant—is the NAB's annual spring convention and electronic media exhibition. This weeklong event, which can barely be contained within the huge Las Vegas Convention Center, is billed as the world's largest conference and exhibition for electronic media. It drew some 97,000 people this year. The convention has showcased such news celebrities as Barbara Walters, Jeff Greenfield, Larry King and Katie Couric.

Sam Donaldson of ABC News has appeared for the past four years, sharing a stage with FCC Chairman Michael Powell. Donaldson's annual interview of Powell has become one of the convention's most popular sessions. It was held this year in a cavernous auditorium and banquet hall, where Eddie Fritts, the NAB president and CEO, introduced Donaldson and Powell to an overflow crowd.

Donaldson proved to be well versed in the industry's regulatory issues. He began with perhaps the NAB's hottest concern at that moment: indecency. After Janet Jackson's right nipple made its television debut at the Super Bowl halftime show, a furor had arisen in Washington over the raunchiness of

much radio and television content. Pressured by Congress to act, the FCC had proposed a \$755,000 fine against the nation's largest radio chain, Clear Channel Communications, for the on-air antics of one of its more extreme shock jocks. The NAB was trying to disarm this issue by arguing that the industry could police itself if only the government would back off.

Donaldson asked Powell why the FCC had toughened its enforcement this year. Powell said it was because of an increase in public complaints, from only 14,000 in 2002 to nearly 540,000 in just the first few months of 2004.

Donaldson: "Are you telling me you're just bowing to public pressure?"

Powell: "No, we're being responsive to public concern, which is the way the indecency statute is written."

Donaldson: "Oh my. I must beg to suggest that, in one case, of Clear Channel, there were 21 violations in one instance since 2001. You didn't move until all of a sudden you got really tough with a huge fine. And where were you all this time?"

Powell: "Oh, I think that's not an accurate reflection of the facts. We have waded through indecency cases for the last four years, and indeed I've been on the commission for seven years and in a commission led by a previous administration we dealt with indecency complaints."

Donaldson: "With fines of that size?"

Powell: "Not with fines of that size...."

Donaldson: "Mel Karmazin [the head of Viacom] wants the commission to define, legally—and lawyers out there

will understand this—where the line is. I mean, how can you fine someone in an ex post facto sense when they've done something that they don't have a guidepost to say is wrong?"

Powell: "I think this argument is largely a red herring." He compared the matter with sentencing guidelines in the courts. Judges should have leeway, and so should the FCC, he said.

Donaldson: "Well, it sounds to me like you're saying to everyone here, 'You're on your own. Good luck. We'll take a look at what you do, if there are public complaints, and you may get fined for it, or not, depending on our judgment at that time.'"

The interview went on in that vein, with Donaldson raising some of the industry's principal lobbying concerns and trying, with varying success, to pin Powell down about future FCC policies. The newsman was playing the same role everyone had seen him play on TV. Only, instead of asking sharp questions about the salient issues of the day, he was grilling a federal regulator about the narrower issues affecting what Donaldson called "our industry." Some of his questions centered on how the FCC might help broadcasters in their competitive struggles with their archrivals, the cable and satellite industries. He referred several times to Fritts, who was observing from off-stage. "Eddie, where are you?" he joked.

At one point he quoted from an emotional speech Fritts had made the day before, in which the NAB leader had urged government regulators to force cable companies to carry all the signals of broadcast stations. As Fritts put it, "let the free broadcast signals flow." When Powell gave a somewhat vague response about that, Donaldson demanded: "Is that a 'no'?"

Powell said: "The irony of what you're saying is, let's let it freely flow by increasing regulation to make sure."

Donaldson then announced: "That's a 'no,' Eddie."

If there was a difference between special-interest lobbying and what Donaldson was doing, it was not obvious.

A few hours after the Donaldson-Powell interview, the other four FCC commissioners appeared in what the convention's program of events called "a rousing discussion from these regulatory heavyweights." It was led by John Cochran, chief Washington correspondent for ABC News. While not as aggressive as Donaldson, Cochran had a grasp of the regulatory issues and

framed most of his questions from an industry point of view.

Besides the Donaldson and Cochran interviews, an NAB board member conducted a question-and-answer session at this year's convention with several members of Congress, all from key committees. Another NAB lobbyist held a Q-and-A with five high-ranking FCC staffers. These lobbyists covered the same sorts of regulatory issues the two newsmen had. Neither was as openly confrontational as Donaldson.

The NAB denies that what Donaldson and Cochran did was in any way akin to lobbying, or that such behavior compromised them in any way. "I think Sam Donaldson's record as a journalist

The Radio and Television News Directors Foundation, an educational arm of the Radio-Television News Directors Association, gives a First Amendment Leadership Award each year to someone "who has demonstrated a lifetime dedication to freedom of the press." This year's award went to Sens. Charles Grassley (R-Iowa) and Patrick Leahy (D-Vt.). It was presented by Linda Douglass of ABC News.

The dinner was at the Ritz-Carlton in Washington, with a guest list that included lobbyists, government people, broadcast executives and some big-name TV journalists, all in tuxes and formal dresses. Waiters floated amid a

minimal editing, either senator could have turned it into a campaign ad.

In her voiceover, Douglass declared that "Charles Grassley may be a plain-spoken Iowa farmer with Midwestern good manners, but government agencies know not to cross him."

And: "Vermont's Patrick Leahy has printer's ink in his blood. His dad owned a small printing shop in Vermont."

Interspersed were shots of Grassley and Leahy going about their daily work or speaking into the camera about the importance of government transparency. Grassley, for instance, said: "I'm never going to give up if there's something wrong. I believe that this is the people's government..."

**"There's no question it would be
to understand why we're
being so chummy with the people we cover."**

speaks for itself," says Dennis Wharton, the NAB's senior vice president for corporate communications. "He's proven over the years that he's no lackey for anybody."

Cochran says he considered his session with the FCC commissioners "a journalistic exercise" rather than part of the NAB's political advocacy. He says he suspects that the NAB uses newsmen like himself and Donaldson for these sessions because "we're unbiased."

"I thought it was just almost like a news program," he says, adding that he'd hoped C-SPAN might cover it. "I thought it would be good for the public to see it."

Donaldson did not return phone calls seeking comment for this story.

Whatever you call them, these sessions do more than just enliven the proceedings. They are an important part of the advocacy process, the ongoing effort to get policymakers to see things as the broadcasters see them. And to make them realize how powerful broadcasters are, and how politically well organized. And, by implication, how unwise it might be to cross them.

sea of white tablecloths, making sure no wine glass went empty.

When it came time to honor the senators, the evening's master of ceremonies, Bill Plante, CBS' White House correspondent, introduced Douglass, ABC's chief Capitol Hill correspondent. Both Plante and Douglass have interviewed Leahy and Grassley many times. The senators are part of Douglass' regular beat, as she cheerfully acknowledged from the podium.

"In the interest of full disclosure," she announced, "I have to confess that these are two of my favorite senators. Both are sometimes lovable, sometimes ornery. Both are stubborn enough to drive up the blood pressure of the other senators, yet they are charming enough that it's hard to get mad at them."

After reviewing the senators' contributions to the public's right to know, Douglass introduced a video, which ran on two large screens on either side of the stage. It had been put together by an ABC News crew in the style of a TV news report, although it was far more glowing than most news reports. With

A few days later, in a phone interview, I asked Douglass about the propriety of bestowing awards and public flattery on politicians she covers. She responded with a spirited defense. She'd had nothing to do with choosing the award recipients, she said; she'd simply gotten a call from RTNDA asking her to make the presentation. She didn't think this crossed an ethical line. "Both of these senators have a long history of being praised by journalists" for their defense of the First Amendment, she said.

She thought there might be an ethical problem "if you are in a group that is regulated by these two senators, or if you have something to gain from honoring them.... But this is a foundation that gives scholarships to students."

She suggested I ask the senators themselves if they thought her presentation of the award would inhibit her in how she covered them. I said I was more interested in what a potential campaign opponent might think, seeing those incumbents so generously praised at a public dinner by a large group of journalists. Especially so, considering that

Douglass' employer, Disney, has made campaign contributions to Grassley—a total of \$10,000 since February 2002, according to public records. (Plante's employer, Viacom, is also a Grassley campaign contributor.)

"I have no idea what Disney does politically. I have absolutely no awareness of Disney's contributions," Douglass said. "I think your question to me is, 'Have I ever supported these guys?' and the answer is no."

RTNDA President Barbara Cochran also sees nothing inappropriate about Douglass' role at the dinner. Asked why the organization chose a reporter who covers the senators to give them an award, she said, "They were senators whom she knew; it seems like a logical person to turn to."

And, says Cochran, the foundation that gives the award does no lobbying itself, although RTNDA (which effectively runs the foundation) does lobby Congress on First Amendment issues. Cochran says that the awards to Grassley and Leahy do not constitute excessive coziness with subjects of news coverage, because RTNDA and RTNDF do not cover or publish news.

For other perspectives, I called the Poynter Institute, which emphasizes ethics in all of its journalistic training courses. Aly Colón, who is an ethics group leader there, says he cannot recall a specific case of a reporter giving an award to someone he or she covered. "I think it has some real problems attached to it, problems of how people will perceive the impartiality of coverage of these two senators by the individuals and the group that gave them the award."

Al Tompkins, also of Poynter, who once coauthored an ethics workbook for RTNDA, says, "There's no question it would be difficult for the public to understand why we're being so chummy with the people we cover."

Vicki Gowler, editor of the St. Paul Pioneer Press, chairs the American Society of Newspaper Editors' committee on ethics and values. Without passing judgment on the specific case, with which she was unfamiliar, she says having a Capitol Hill reporter give awards to two senators "feels wrong."

Scott Bosley, ASNE's executive director, says: "We've never given an award to anyone in government, nor have I detected any appetite to do so."

Asked if he could imagine his organization giving an award to a politician, Brant Houston, executive director of

Investigative Reporters and Editors, said, "I really can't."

"For most of our members," he said, "I think it would be kind of amazing for one of them to give an award to a public official...because we encourage people to be watchdogs."

After some searching, I found a disinterested party who said he felt comfortable with what RTNDA had done. He's Frank Gibson, political editor of Nashville's Tennessean and a former president of the Society of Professional Journalists. He said he could recall SPJ giving awards to at least two public officials—one a member of the Texas Supreme Court and the other William J. Brennan Jr., the late U.S. Supreme Court justice.

When I described the Grassley-Leahy situation and asked his opinion, Gibson said, "I do not see any ethical breach in that at all." He said the RTNDA, as an organization, doesn't cover Congress, although some of its members do. And, he said, the award was probably approved by a board or committee, "and probably nobody on that body has ever met those senators."

However one feels about them, awards to politicians are popular in the broadcasting business. This year, the New Jersey Broadcasters Association named Sen. Jon Corzine (D-N.J.) its Citizen of the Year and gave him a gold-and-onyx globe inscribed with his name. The association has given the same award for the past 10 years, always to a federal officeholder from the Garden State.

In Illinois, broadcasters in recent years have given Distinguished Service Awards to House Speaker J. Dennis Hastert and Rep. John Shimkus, both Illinois Republicans. Hastert has played a key role in blocking congressional efforts to limit the concentration of media ownership, and Shimkus is a member of the House Energy and Commerce Committee, which oversees telecommunications and media issues.

Iowa broadcasters inducted Sen. Grassley into their Hall of Fame last year, praising him and his wife in a press release for the way they "unselfishly volunteer their time to appear on Iowa radio and television stations in a number of public service announcements."

And this year the NAB inaugurated what it called a "legislative leadership award," to be given each year to an individual "who demonstrates unusual dedication to improving

broadcasters' relationship to the federal government." Sen. Stevens, honored earlier by Alaska broadcasters, got this award as well.

Asked if he considered it less of a problem for an organization like the NAB, which represents the media's business side, to give awards to politicians, Al Tompkins said: "I don't really know that it matters much. One of the tenets of journalism is to be independent. Anything that clouds that independence only reinforces and raises questions in the public's mind."

Last March, about 350 executives of the broadcast industry descended on Washington, as they do each year, for a week of concentrated lobbying, organized by the NAB. Key members of Congress and top aides from the FCC were invited to give speeches and briefings to the assembled group, and to answer specific questions about the industry's hot-button economic issues. The various state association members then piled into taxis and sped off to visit their congressional delegations on Capitol Hill.

The five-person group from South Dakota included three broadcast executives and a hired lobbyist. The fifth member—there to lobby, not to cover the trip—was J.P. Skelly, a well-known reporter and radio news director in Mitchell, South Dakota.

The group visited the offices of South Dakota's two Democratic senators, Tom Daschle and Tim Johnson. Interviewed afterward, Skelly said they talked about low-power FM radio (which broadcasters continue to oppose) and a requirement that satellite home video carry the programming of local TV stations (which broadcasters favor). Also, Skelly said, they argued against a proposal that would require broadcasters to give free airtime to campaigning politicians, an idea being pushed by public interest groups and some members of Congress. The broadcast industry condemns it as unconstitutional.

Daschle, in a speech before the entire NAB assembly, complimented Skelly as "somebody I talk to a lot on the radio. He interviews me and is one of the best newsmen in the state of South Dakota."

Later, I asked Skelly if he felt awkward about lobbying the same politi-



J.P. Skelly

cians he interviews on the air. "Generally, within the station walls, I'm wearing my news hat," he said, "and really I'm impartial about it. We don't report on a lot of broadcasting issues as such, so it's not as important as all that."

The South Dakota Broadcasters Association certainly doesn't feel awkward about Skelly's dual role. It issued a press release announcing that Skelly had won a journalism prize and then proudly stating that he "has lobbied members of Congress...regarding campaign finance reform and other issues." (Broadcasters have opposed campaign finance legislation aimed at reducing the amount of money in politics, because of the impact that could have on political advertising.)

The broadcasting lobby benefits greatly from the web of personal relationships it forges with politicians at the local level. These relationships can be especially close in states with relatively small populations. Daschle, the Senate minority leader, says he spends "a good deal of time traveling around South Dakota, especially in the summer. I get to all 66 counties every year, and one of my favorite things to do is to drop in on J.P. [Skelly] or one of the stations in the heart of the rural community and talk about some of the issues, the farm reports. Sometimes they'll even let me read them."

He says, "I've spent so much time in studios over the years that I've been in public life, I feel like a member of NAB."

Paula Maes of the New Mexico Broadcasters Association describes something similar in her state. She says when a legislator comes home from Washington, "he'll visit our radio stations in Hobbs or in Roswell or Las Cruces, and he's on a first-name basis with these managers."

The NAB tries to track all of those local contacts. The Texas Association of Broadcasters, for instance, posted a notice to members advising that Congress "is not in session at this time, so broadcasters should take the opportunity to get to know their members better while they're in their districts." It asked that they "please report all contacts" back to the association. "Such information is extremely helpful in our lobbying efforts on your behalf."

Any local broadcaster who meets with a member of Congress is expected to file a contact report, which goes into a database at NAB headquarters in Washington. It allows the NAB to categorize lawmakers as friends or foes. The

information is also used to keep tabs on lawmakers issue by issue, much like the House and Senate whips tally their members' votes.

Dennis Wharton, the NAB spokesman, points out that this is not unusual for Washington interest groups. "The cable industry does it, the computer industry does it. It's a very common lobbying practice," he says.

Wharton is right. Still, when a giant media organization is keeping such dossiers, it's hard to blame politicians for feeling a little paranoid.

Newspapers' basic product has always been news, while the basic product of broadcasting is entertainment, with news as an adjunct. This may explain why traditions of journalistic ethics don't run as deep in broadcasting.

At this year's Border Governors Conference in Santa Fe, a KOB-TV anchorwoman, Monica Armenta, introduced the governor of New Mexico at a reception. "Bill Richardson has done more for New Mexico in two legislative sessions than any previous governor accomplished in decades," she told a crowd of several hundred people. Armenta has interviewed Richardson on the air many times. She has a 30-minute Sunday show that often discusses politics.

Both Albuquerque newspapers reported her remarks, along with the fact that they had been written for her by a member of the governor's staff. The Albuquerque Tribune called it "one of the most glowing introductions" the governor had ever received.

Considering the criticism she got from the papers, Armenta told me she might not give such an introduction if she had it to do over again. "Lesson learned," she said. However, she added, "I've done hundreds of these over the years, and so have many other people in this market, who I've never seen mentioned for introducing anyone, although the introductions were not that different from what I did."

KOB's station manager, Mike Burgess, told the Tribune that he welcomes the publicity his station gets from appearances by its newscasters. As for Armenta's specific remarks, he said she was "probably wanting our governor to

look good before all the other governors" at the conference.

Not many major newspapers have such lax standards. Newspapers tend to discourage just about any kind of partisan activity by their newscasters. This year, the Baltimore Sun banned a reporter from writing about state government after she gave the governor of Maryland a baby bib for his newborn son. The New York Times won't allow a reporter's spouse to have a bumper sticker favoring a candidate. Many newspapers would also disallow the kind of public appearance Sam Donaldson made at the NAB convention. And newspaper organizations generally don't give awards to politicians.

Since 1997, when the Newspaper Guild merged with the Communications Workers of America, which is very active politically, the leaders of the combined organization have had to deal with some cultural dissonance. When the CWA endorsed John Kerry this year, Linda Foley, as head of the Guild, abstained on behalf of her newspaper journalist members. And when the group makes endorsements at its convention, Foley says, "someone gets up and abstains and makes a speech about why that's important for the reporters."

Still, consolidation of ownership is closing the gap between print and electronic media. Belo Corp., once mainly a newspaper chain, now gets half its revenues from television. The Tribune Co.'s broadcasting and entertainment division accounts for 39 percent of its profits, and the company's CEO, Dennis FitzSimons, got his start not in newspapers but as a buyer of TV time for a New York City ad agency. The NAB's board of directors includes executives of entities most people think of as newspaper companies: Media General, Gannett, Post-Newsweek, Tribune, Belo and E.W. Scripps. Executives from such companies are also active in various state broadcasters associations. Representatives from Gannett can be found in the anterooms of the FCC just about as often as those from Disney. And at last year's convention of the Newspaper Association of America, who should turn up as a featured speaker but Michael Powell of the FCC.

So they're all in it together now, all lobbying harder than ever, and all subject to a similar range of ethical pitfalls and embarrassments.

In May of last year, William Dean Singleton walked into a small ambush at the Senate Commerce Committee. He



Monica Armenta

was there to speak on behalf of the NAA and the company he heads, MediaNews Group, which owns newspapers and TV stations from coast to coast.

The issue at hand was whether companies should have more leeway to own both print and broadcast outlets in the same city. Such combinations can enhance profits, and Singleton thought they should be allowed. Many of the senators did not. They cited the loss of diverse voices, and they feared that a few companies, given too much control over information in a community, might shape the news to their own interests.

Not so, Singleton assured them. News outlets owned by the same company "generally present diverse perspectives." And large newspaper chains allow their papers "local autonomy and editorial freedom."

When Singleton was done speaking, the committee's chairman, Sen. John McCain (R-Ariz.), sprang a trap. The senator "squinted and leaned into the microphone," according to a Washington Post account. In his hand was a list of newspaper editorials about a controversial bill passed by Congress in 1996. It was the same bill Bob Dole had opposed, the one giving TV stations free use of the digital broadcast spectrum. Some newspaper chains—those that owned TV stations—stood to gain a lot from the bill. Others, without TV holdings, would gain nothing.

And the curious thing, to McCain, was that every paper on his list that had editorialized in favor of the bill was owned by a company that would benefit from it. And every paper that had written in opposition was owned by a company with little to gain.

"Do you think that's an anomaly?" McCain asked Singleton.

"I do," Singleton replied.

"So," said McCain, voice heavy with sarcasm, "it's a coincidence."

A growing body of evidence suggests that the economic interests of media companies really do affect their news and editorial content. Scholars are finding interesting ways to document this.

The study McCain produced at the hearing was by J.H. Snider and another researcher, Benjamin Page of Northwestern University.

Todd Schaefer, a political science professor at Central Washington University, has done a similar study of newspaper editorials.



AP PHOTO/RON EDMONDS

In the late 1990s, President Clinton proposed that TV stations be required to give national political candidates free airtime to express their views. The idea was to lower campaign costs and give underfunded candidates a better chance to be heard. The FCC backed the proposal for a time, and it was included in the original McCain-Feingold bill regulating campaign finance. The Los Angeles Times, in an editorial, asserted that free airtime might help eliminate "the legalized bribery that's at the heart of corruption in American politics." However, broadcasting lobbyists attacked the idea as violating their First Amendment rights.

Schaefer analyzed newspaper editorials on the subject. Of the editorials appearing in papers without an ownership stake in broadcasting, 73 percent favored free airtime. But of those editorials in papers with broadcast holdings, only 30 percent favored free airtime. "Interestingly," he wrote, "none of the papers owning broadcast interests informed their readers of that fact in their editorials."

Last year, AJR looked at the editorials of a single newspaper chain, the Tribune Co., on the subject of cross-ownership of newspaper and television properties. (See "News Blackout," December 2003/January 2004.) The combining of print, radio, television and online news is central to Tribune's business strategy. It probably exploits the synergies of such multiple ownership—cross-promo-

William Dean Singleton (right), vice chairman and CEO of MediaNews Group, testifying before Congress last May. Singleton, a former president of the Newspaper Association of America, said companies should be allowed to own newspapers and television stations in the same market. Jim Goodmon (left), president and CEO of Capitol Broadcasting Co., and Seattle Times Publisher Frank Blethen (center) oppose further media consolidation.

tion, the sharing of newsgathering resources and the packaging of multimedia ad deals—more systematically than any other company. (See "Synergy City," May 1998.) Tribune was lobbying fiercely against restrictions that would force it to sell off some of these overlapping properties, and its editorials reflected that bias. All five Tribune papers that editorialized on the subject favored abolishing the restrictions.

In 2000, Martin Gilens and Craig Hertzman of Yale University published a study of coverage of the 1996 Telecommunications Act, a landmark piece of legislation that loosened caps on radio and TV station ownership. These researchers went beyond editorials and looked at the news coverage of papers with and without an economic interest. They made a list of the arguments advanced for and against the legislation and then counted the number of times those arguments appeared in news sto-

ries. They found that papers owned by corporations with no TV stations (Times Mirror, Central Newspapers, McClatchy and Copley) mentioned negative consequences of the legislation three-and-a-half times more often than they mentioned positive consequences. And papers owned by corporations with nine or more TV stations (Gannett, E.W. Scripps, Pulitzer and Lee Enterprises) mentioned positive consequences more than twice as often as negative consequences.

"This study provides systematic evidence that the financial interests of media owners influence not only newspaper editorials but straight news reporting as well," the authors concluded.

That could explain what happened last year at the Tampa Tribune. The Tribune and WFLA-TV in Tampa are both owned by Media General. They are housed in the same building and have an unusually close relationship, sharing resources, teaming reporters on news stories and promoting each other's work. Last October, Howard Kurtz of the Washington Post wrote that a WFLA morning show called "Daytime" was selling some of its interview segments to local businesses for \$2,500 a pop, a practice the Post criticized the next day on its editorial page. Broadcasting & Cable advanced the story a few days later, quoting a Media General official as saying some of the company's other stations

next day's edition of the Sun.

"On the one hand," wrote Folkenflik, "readers may reasonably wonder whether The Sun will tilt its coverage in favor of WMAR because of their new partnership. On the other hand, there is no other hand."

In an interview, he said he'd "had an unbelievable number of conversations" about the tie-in while interviewing people at rival stations. "It's either a subtext, under the surface, or it comes to the surface real quick," he says.

Various news companies—including Tribune, Belo and Media General—have similar cooperative arrangements. They call them synergies; others call them conflicts of interest.

We need to see the media business a huge economic special interest.

Gilens, who is now at Princeton, says that he was "quite surprised" at how convincing the findings were. He says he has no idea exactly how the bias gets transmitted from top executives to reporters and editors. "I do think there has to be some kind of communication going on," he says.

Mark Crispin Miller, director of the Project on Media Ownership at New York University, has a theory about that. He writes that "the chill of censorship" has "less to do with outright interference by the parent company (although that happens) than with editors and reporters learning what it takes to get ahead."

When the Pew Research Center for the People & the Press and Columbia Journalism Review surveyed 300 journalists, both print and broadcast, one out of five said they had faced criticism or pressure from bosses after doing a story that was seen as damaging to the company's financial interests. And one in four said they had voluntarily softened the tone of stories or avoided doing them altogether for fear of what their bosses might say.

were considering launching shows similar to "Daytime."

Although "Daytime" had been airing for more than two years, the Tribune had ignored the matter of the paid interviews until the Post revealed it. The Tribune then ran a story loaded with lame justifications by three Media General executives. A commentary in Broadcasting & Cable said the story "read like a corporate press release," which it did.

In February 2002, David Folkenflik, who covers the media for the Baltimore Sun, found himself in an ethical dilemma and decided to face it head-on. In a column, he told readers: "The people who sign my paychecks entered into an agreement last week with some of the folks that I write about, and boy, am I conflicted about it."

He went on to explain that the Sun had formed a news and advertising partnership with Baltimore's WMAR-TV, under which the two would trade ad time on the air and ad space in the paper, Sun reporters would appear on WMAR's newscasts to talk about their stories, and the station would plug the

"Almost everyone in Big Media has got one of these issues," says Rob Karwath, business editor of the Chicago Tribune. He was talking mainly about how media companies risk losing credibility by owning sports teams. The Tribune owns the Chicago Cubs, airs their games on its broadcast stations and covers them in the newspaper.

"Just the relationship opens you up to questions," Karwath says, "and not necessarily press-critic-type questions, but questions in the public about, well, did you pull a punch there?... The sports guys deal with it all the time."

Last year the Newspaper Guild/CWA filed comments with the FCC arguing against cross-ownership of newspaper and TV outlets in the same city. The union said that reporters and editors from around the country had provided "a wealth of anecdotes to demonstrate how ownership influences news reporting." One of these accounts, said the union, was from a reporter at a paper whose owner also owned a local TV station. This reporter said:

"When the Nielson TV ratings come out, I know I am expected to write a big

story if the co-owned station's ratings are good and to bury the story if the co-owned station's ratings are down. Or another example. A few years ago, I ran a survey asking readers what they thought of local television news programs. My general manager told me the next time I do something that might affect our sister station, I better check with him first. I got the message—I haven't done a similar project since then."

All of this—the structural conflicts of interest, plus the ways in which media organizations throw their weight around, plus their flattering of friendly politicians with awards, plus the evidence of self-serving news bias—damages news credibility in ways not seen before. It is breeding a profound cynicism about the news and those who report it.

Media lobbyists have even sown cynicism about the First Amendment. They use freedom of the press as an all-purpose bludgeon, wielding it in support of things that enhance their profits but which many thoughtful Americans abhor. Cable TV uses the First Amendment to fend off curbs on violent programming aimed at children. The Association of National Advertisers uses it in response to criticism of deceptive drug ads and junk food ads that foster obesity in children. Last year, in a speech, Dennis FitzSimons, the Tribune Co.'s CEO, associated free-speech rights with beer and wine ads, prescription drug ads and resistance to proposals for free airtime for politicians. The Media Institute, a media-supported Washington think tank, has argued that the First Amendment protects all kinds of pharmaceutical advertising, tobacco advertising, sex and violence on TV, commercial e-mail and bomb-making information on the Internet.

When the McCain-Feingold campaign finance law came before the U.S. Supreme Court last year, 42 ex-members of Congress—from both major parties and all points on the political spectrum—asked the court to uphold it. In an amicus brief, the former lawmakers said the measure was needed because America's campaign finance system had "corrupted and undermined the legislative process." The court's majority, in its ruling, tackled head-on the question of whether campaign donations have a corrupting influence, and it concluded:

"Both common sense and the ample record in these cases confirm Congress's belief that they do."

Broadcasters have fought consistently, though, both in the courts and in Congress, to prevent restrictions on money in politics. The politicians know perfectly well why this is. Most of the money they collect—perhaps as much as 80 percent—goes straight into radio and television advertising. As former Sen. Bill Bradley (D-N.J.) once described it, "You simply transfer money from contributors to television stations." And while many citizens deplore this, it is openly celebrated in broadcasting circles. In April, Broadcasting & Cable joyfully reported that candidates might pour a record \$1 billion into national and local races in 2004. "The early mudslinging between President George W. Bush and Sen. John Kerry may not be pretty," the magazine said, "but it will be very profitable for stations." In their arguments for maintaining the unrestricted flow of all this money, however, industry lobbyists don't cite their profits; they cite the First Amendment.

Yet, when it suits their interests, these same lobbyists turn around and argue for more restraints on speech—the speech of their competitors. One branch of the media will often use the First Amendment against another.

Cable companies say that because of the First Amendment, the government can't force them to carry all the signals of local broadcast stations. But the NAB, representing those stations, argues the opposite. Satellite broadcast services say they have a First Amendment right to beam weather and traffic information into local markets. (See *Broadcast Views*, page 104.) But the NAB, fearing the competition, wants the government to prohibit them from doing that. The NAB also thinks the government should hold cable TV (a voluntary service for which people pay) to the same decency standards as free, over-the-air TV. The cable industry says this would violate its First Amendment rights.

"I can't recall people from the media relying on the First Amendment unless it was going to help them economically," says Bill Luther, a former Democratic congressman from Minnesota. Until he left office in 2002, Luther was on the House Energy and Commerce Committee, which is heavily lobbied by all kinds of media interests. "I didn't see any principles being advanced," he says. "It's all just pocketbook."

We need to see the media business for what it truly has turned into: a huge economic special interest. People in government see it that way, and so do many ordinary folk. A recent report by the Project for Excellence in Journalism speaks of a public perception, apparent in various polls, that the media are driven "by financial and self-aggrandizing motives rather than the public interest."

Every journalistic code of ethics recognizes the danger in that. RTNDA's code, for instance, begins by saying electronic journalists "should understand that any commitment other than service to the public undermines trust and credibility."

Yet that's exactly what journalists do—undermine credibility—when they go beyond newsgathering and begin to associate themselves with their industry's economic and lobbying activities. Giving awards to politicians or moderating a panel of government regulators for the NAB compromises them just as much as if they did those things for trial lawyers or members of the National Rifle Association. The NAB is just as political as those groups.

Furthermore, in its lobbying, the media industry often undermines what many journalists consider to be clean government. We have touched very briefly on some of this—the political money game, the junkets, the revolving door.

Ideally, newspeople would not only stay clear of those activities, they would make sure the public knew about them. It's a real problem when one of Washington's most powerful interests doesn't get mentioned on the news, because it owns the news.

As a practical matter, what can journalists do? At a minimum, they could do more of what David Folkenflik did with WMAR—acknowledge the ethical problems and disclose the connections as frankly as possible. They could also put a lot more distance between themselves and their industry's paid political pleaders. When asked to perform at those conventions, sales conferences and awards ceremonies, they could start saying no. ■

Senior writer Charles Layton wrote about coverage (and lack thereof) of the debate over the FCC's plans to revise media concentration rules in AJR's December 2003/January 2004 issue.